



House of Representatives

General Assembly

File No. 600

February Session, 2014

Substitute House Bill No. 5215

House of Representatives, April 17, 2014

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ADOPTION OF THE CONNECTICUT UNIFORM POWER OF ATTORNEY ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) Sections 1 to 45,
2 inclusive, of this act may be cited as the "Connecticut Uniform Power
3 of Attorney Act."

4 Sec. 2. (NEW) (*Effective October 1, 2014*) As used in sections 1 to 45,
5 inclusive, of this act:

6 (1) "Agent" means a person granted authority to act for a principal
7 under a power of attorney, whether denominated an agent, attorney in
8 fact, or otherwise. Agent includes an original agent, coagent, successor
9 agent and a person to which an agent's authority is delegated.

10 (2) "Durable" means, with respect to a power of attorney, not
11 terminated by the principal's incapacity.

12 (3) "Electronic" means relating to technology having electrical,

13 digital, magnetic, wireless, optical, electromagnetic or similar
14 capabilities.

15 (4) "Good faith" means honesty in fact.

16 (5) "Incapacity" means inability of an individual, even with
17 appropriate assistance, to perform the functions inherent in managing
18 his or her affairs because the individual:

19 (A) Has a mental, emotional or physical condition that results in the
20 individual being unable to receive and evaluate information or make
21 or communicate decisions; or

22 (B) Is:

23 (i) Missing;

24 (ii) Detained, including incarcerated in a penal system; or

25 (iii) Outside the United States and unable to return.

26 (6) "Person" means an individual, corporation, business trust, estate,
27 trust, partnership, limited liability company, association, joint venture,
28 public corporation, government or governmental subdivision, agency,
29 or instrumentality or any other legal or commercial entity.

30 (7) "Power of attorney" means a writing or other record that grants
31 authority to an agent to act in the place of the principal, whether or not
32 the term power of attorney is used.

33 (8) "Presently exercisable general power of appointment" means,
34 with respect to property or a property interest subject to a power of
35 appointment, power exercisable at the time in question to vest absolute
36 ownership in the principal individually, the principal's estate, the
37 principal's creditors or the creditors of the principal's estate. The term
38 includes a power of appointment not exercisable until the occurrence
39 of a specified event, the satisfaction of an ascertainable standard, or the
40 passage of a specified period only after the occurrence of the specified
41 event, the satisfaction of the ascertainable standard, or the passage of

42 the specified period. The term does not include a power exercisable in
43 a fiduciary capacity or only by will.

44 (9) "Principal" means an individual who grants authority to an agent
45 in a power of attorney.

46 (10) "Property" means anything that may be the subject of
47 ownership, whether real or personal, or legal or equitable, or any
48 interest or right therein.

49 (11) "Record" means information that is inscribed on a tangible
50 medium or that is stored in an electronic or other medium and is
51 retrievable in perceivable form.

52 (12) "Sign" means, with present intent to authenticate or adopt a
53 record to:

54 (A) Execute or adopt a tangible symbol; or

55 (B) Attach to or logically associate with the record an electronic
56 sound, symbol or process.

57 (13) "State" means a state of the United States, the District of
58 Columbia, Puerto Rico, the United States Virgin Islands or any
59 territory or insular possession subject to the jurisdiction of the United
60 States.

61 (14) "Stocks and bonds" means stocks, bonds, mutual funds, and all
62 other types of securities and financial instruments, whether held
63 directly, indirectly or in any other manner. Stocks and bonds does not
64 include commodity futures contracts and call or put options on stocks
65 or stock indexes.

66 Sec. 3. (NEW) (*Effective October 1, 2014*) The provisions of sections 1
67 to 45, inclusive, of this act apply to all powers of attorney except:

68 (1) A power to the extent it is coupled with an interest in the subject
69 of the power, including a power given to or for the benefit of a creditor
70 in connection with a credit transaction;

71 (2) A power to make health care decisions;

72 (3) A proxy or other delegation to exercise voting rights or
73 management rights with respect to an entity; and

74 (4) A power created on a form prescribed by a government or
75 governmental subdivision, agency or instrumentality for a
76 governmental purpose.

77 Sec. 4. (NEW) (*Effective October 1, 2014*) A power of attorney created
78 under sections 1 to 45, inclusive, of this act is durable unless it
79 expressly provides that it is terminated by the incapacity of the
80 principal.

81 Sec. 5. (NEW) (*Effective October 1, 2014*) A power of attorney must be
82 dated and signed by the principal or in the principal's conscious
83 presence by another individual directed by the principal to sign the
84 principal's name on the power of attorney and witnessed by two
85 witnesses. A signature on a power of attorney is presumed to be
86 genuine if the principal acknowledges the signature before a notary
87 public or other individual authorized by law to take
88 acknowledgments.

89 Sec. 6. (NEW) (*Effective October 1, 2014*) (a) A power of attorney
90 executed in this state on or after October 1, 2014, is valid if its
91 execution complies with section 5 of this act.

92 (b) A power of attorney executed in this state before October 1, 2014,
93 is valid if its execution complied with the law of this state as it existed
94 at the time of execution.

95 (c) A power of attorney executed other than in this state is valid in
96 this state if, when the power of attorney was executed, the execution
97 complied with:

98 (1) The law of the jurisdiction that determines the meaning and
99 effect of the power of attorney pursuant to section 7 of this act; or

100 (2) The requirements for a military power of attorney pursuant to 10
101 USC 1044b, as amended from time to time.

102 (d) Except as otherwise provided by statute, other than sections 1 to
103 45, inclusive, of this act, or unless the power of attorney otherwise
104 provides, a photocopy or electronically transmitted copy of an original
105 power of attorney has the same effect as the original.

106 Sec. 7. (NEW) (*Effective October 1, 2014*) The meaning and effect of a
107 power of attorney is determined by the law of the jurisdiction
108 indicated in the power of attorney and, in the absence of an indication
109 of jurisdiction, by the law of the jurisdiction in which the power of
110 attorney was executed.

111 Sec. 8. (NEW) (*Effective October 1, 2014*) (a) In a power of attorney, a
112 principal may nominate a conservator of the principal's estate or
113 conservator of the principal's person for consideration by the court if
114 protective proceedings for the principal's estate or person are begun
115 after the principal executes the power of attorney. The court shall make
116 its appointment in accordance with the principal's most recent
117 nomination unless the court finds that the appointee, designee or
118 nominee is unwilling or unable to serve or there is substantial evidence
119 to disqualify such person.

120 (b) If, after a principal executes a power of attorney, a court appoints
121 a conservator of the principal's estate or other fiduciary charged with
122 the management of some or all of the principal's property, the agent is
123 accountable to the fiduciary as well as to the principal. The power of
124 attorney is not terminated and the agent's authority continues unless
125 limited, suspended or terminated by the court.

126 Sec. 9. (NEW) (*Effective October 1, 2014*) (a) A power of attorney is
127 effective when executed unless the principal provides in the power of
128 attorney that it becomes effective at a future date or upon the
129 occurrence of a future event or contingency.

130 (b) If a power of attorney becomes effective upon the occurrence of a

131 future event or contingency, the principal, in the power of attorney,
132 may authorize one or more persons to determine in a writing or other
133 record that the event or contingency has occurred.

134 (c) If a power of attorney becomes effective upon the principal's
135 incapacity and the principal has not authorized a person to determine
136 whether the principal is incapacitated, or the person authorized is
137 unable or unwilling to make the determination, the power of attorney
138 becomes effective upon a determination in a writing or other record
139 by:

140 (1) A physician that the principal is incapacitated within the
141 meaning set forth in subparagraph (A) of subdivision (5) of section 2 of
142 this act; or

143 (2) An attorney at law, a judge or an appropriate governmental
144 official that the principal is incapacitated within the meaning set forth
145 in subparagraph (B) of subdivision (5) of section 2 of this act.

146 (d) A person authorized by the principal in the power of attorney to
147 determine that the principal is incapacitated may act as the principal's
148 personal representative pursuant to the Health Insurance Portability
149 and Accountability Act, Sections 1171 to 1179, inclusive, of the Social
150 Security Act, 42 USC 1320d, as amended from time to time, and
151 applicable federal regulations, to obtain access to the principal's health
152 care information and communicate with the principal's health care
153 provider.

154 (e) If the principal, in the power of attorney, authorizes one or more
155 persons to determine in a written affidavit that the event or
156 contingency has occurred, as provided in subsection (b) of this section,
157 then the written affidavit may be in substantially the following form:

158 AFFIDAVIT THAT POWER OF ATTORNEY IS IN FULL FORCE
159 AND EFFECT

160 STATE OF)

161) SS:

162 COUNTY OF)

163 I, of, being duly sworn, depose and say:

164 THAT, of, as principal, did on, 20.., appoint me in a power
165 of attorney dated, 20.., to execute an affidavit that a specified
166 contingency had occurred;

167 THAT specified contingency was:

168 THAT specified contingency has occurred.

169 IN WITNESS WHEREOF, I have hereunto set my hand and seal.

170 L.S.

171

172 Witness

173

174 Witness

175 Subscribed and sworn to before me this day of, 20...

176

177 Commissioner of the Superior Court

178 Notary Public

179 My commission expires:

180 Sec. 10. (NEW) (*Effective October 1, 2014*) (a) A power of attorney
181 terminates when:

182 (1) The principal dies;

183 (2) The principal becomes incapacitated, if the power of attorney is

184 not durable;

185 (3) The principal revokes the power of attorney;

186 (4) The power of attorney provides that it terminates;

187 (5) The purpose of the power of attorney is accomplished;

188 (6) The principal revokes the agent's authority or the agent dies,
189 becomes incapacitated, or resigns and the power of attorney does not
190 provide for another agent to act under the power of attorney; or

191 (7) The power of attorney is terminated by a court pursuant to
192 subsection (b) of section 8 of this act.

193 (b) An agent's authority terminates when:

194 (1) The principal revokes the authority;

195 (2) A court terminates the agent's authority pursuant to subsection
196 (b) of section 8 of this act;

197 (3) The agent dies or resigns;

198 (4) The agent becomes incapacitated. Unless the power of attorney
199 otherwise provides, an agent shall be determined to be incapable of
200 acting as an agent upon a determination in a writing or other record
201 that the agent is incapacitated:

202 (A) Within the meaning set forth in subparagraph (A) of subdivision
203 (5) of section 2 of this act, by:

204 (i) A judge in a court proceeding;

205 (ii) A physician; or

206 (iii) A successor agent, designated in accordance with section 11 of
207 this act, if a written opinion of a physician cannot be obtained either
208 due to the refusal of an agent to be examined by a physician or due to
209 an agent's failure to execute an authorization to release medical

210 information; or

211 (B) Within the meaning set forth in subparagraph (B) of subdivision
212 (5) of section 2 of this act, by an attorney at law, a judge or an
213 appropriate governmental official;

214 (5) An action is filed for the dissolution or annulment of the agent's
215 marriage to the principal or their legal separation, unless the power of
216 attorney otherwise provides; or

217 (6) The power of attorney terminates.

218 (c) Unless the power of attorney otherwise provides, an agent's
219 authority is exercisable until the authority terminates under subsection
220 (b) of this section, notwithstanding a lapse of time since the execution
221 of the power of attorney.

222 (d) Termination of an agent's authority or of a power of attorney is
223 not effective as to the agent or another person that, without actual
224 knowledge of the termination, acts in good faith under the power of
225 attorney. An act so performed, unless otherwise invalid or
226 unenforceable, binds the principal and the principal's successors in
227 interest.

228 (e) Incapacity of the principal of a power of attorney that is not
229 durable does not revoke or terminate the power of attorney as to an
230 agent or other person that, without actual knowledge of the incapacity,
231 acts in good faith under the power of attorney. An act so performed,
232 unless otherwise invalid or unenforceable, binds the principal and the
233 principal's successors in interest.

234 (f) The execution of a power of attorney does not revoke a power of
235 attorney previously executed by the principal unless the subsequent
236 power of attorney provides that the previous power of attorney is
237 revoked or that all other powers of attorney are revoked.

238 Sec. 11. (NEW) (*Effective October 1, 2014*) (a) A principal may
239 designate two or more persons to act as coagents. Unless the power of

240 attorney otherwise provides, each coagent may exercise its authority
241 independently.

242 (b) A principal may designate one or more successor agents to act if
243 an agent resigns, dies, becomes incapacitated, is not qualified to serve
244 or declines to serve. A principal may grant authority to designate one
245 or more successor agents to an agent or other person designated by
246 name, office or function. Unless the power of attorney otherwise
247 provides, a successor agent:

248 (1) Has the same authority as that granted to the original agent; and

249 (2) May not act until all predecessor agents have resigned, died,
250 become incapacitated, are no longer qualified to serve or have declined
251 to serve.

252 (c) Except as otherwise provided in the power of attorney and
253 subsection (d) of this section, an agent that does not participate in or
254 conceal a breach of fiduciary duty committed by another agent,
255 including a predecessor agent, is not liable for the actions of the other
256 agent.

257 (d) An agent that has actual knowledge of a breach or imminent
258 breach of fiduciary duty by another agent shall notify the principal
259 and, if the principal is incapacitated, take any action reasonably
260 appropriate in the circumstances to safeguard the principal's best
261 interest. An agent that fails to notify the principal or take action as
262 required by this subsection is liable for the reasonably foreseeable
263 damages that could have been avoided if the agent had notified the
264 principal or taken such action.

265 Sec. 12. (NEW) (*Effective October 1, 2014*) Unless the power of
266 attorney otherwise provides, an agent is entitled to reimbursement of
267 expenses reasonably incurred on behalf of the principal and to
268 compensation that is reasonable under the circumstances.

269 Sec. 13. (NEW) (*Effective October 1, 2014*) Unless the power of
270 attorney otherwise provides, a person accepts appointment as an agent

271 under a power of attorney by exercising authority or performing
272 duties as an agent or by any other assertion or conduct indicating
273 acceptance.

274 Sec. 14. (NEW) (*Effective October 1, 2014*) (a) Notwithstanding
275 provisions in the power of attorney, an agent that has accepted
276 appointment shall:

277 (1) Act in accordance with the principal's reasonable expectations to
278 the extent actually known by the agent and, otherwise, in the
279 principal's best interest;

280 (2) Act in good faith; and

281 (3) Act only within the scope of authority granted in the power of
282 attorney.

283 (b) Unless the power of attorney otherwise provides, an agent that
284 has accepted appointment shall:

285 (1) Act loyally for the principal's benefit;

286 (2) Act so as not to create a conflict of interest that impairs the
287 agent's ability to act impartially in the principal's best interest;

288 (3) Act with the care, competence and diligence ordinarily exercised
289 by agents in similar circumstances;

290 (4) Keep a record of all receipts, disbursements and transactions
291 made on behalf of the principal;

292 (5) Cooperate with a person that has authority to make health care
293 decisions for the principal to carry out the principal's reasonable
294 expectations to the extent actually known by the agent and, otherwise,
295 act in the principal's best interest; and

296 (6) Attempt to preserve the principal's estate plan, to the extent
297 actually known by the agent, if preserving the plan is consistent with
298 the principal's best interest based on all relevant factors, including:

- 299 (A) The value and nature of the principal's property;
- 300 (B) The principal's foreseeable obligations and need for
301 maintenance;
- 302 (C) Minimization of taxes, including income, estate, inheritance,
303 generation skipping transfer and gift taxes; and
- 304 (D) Eligibility for a benefit, a program or assistance under a federal
305 or state statute or regulation.
- 306 (c) An agent that acts in good faith is not liable to any beneficiary of
307 the principal's estate plan for failure to preserve the plan.
- 308 (d) An agent that acts with care, competence and diligence for the
309 best interest of the principal is not liable solely because the agent also
310 benefits from the act or has an individual or conflicting interest in
311 relation to the property or affairs of the principal.
- 312 (e) If an agent is selected by the principal because of special skills or
313 expertise possessed by the agent or in reliance on the agent's
314 representation that the agent has special skills or expertise, the special
315 skills or expertise must be considered in determining whether the
316 agent has acted with care, competence and diligence under the
317 circumstances.
- 318 (f) Absent a breach of duty to the principal, an agent is not liable if
319 the value of the principal's property declines.
- 320 (g) An agent that exercises authority to delegate to another person
321 the authority granted by the principal or that engages another person
322 on behalf of the principal is not liable for an act, error of judgment or
323 default of that person if the agent exercises care, competence and
324 diligence in selecting and monitoring the person.
- 325 (h) Unless the power of attorney otherwise provides, an agent is not
326 required to disclose receipts, disbursements or transactions conducted
327 on behalf of the principal unless ordered by a court or requested by the

328 principal, a guardian, a conservator, another fiduciary acting for the
329 principal, a governmental agency having authority to protect the
330 welfare of the principal or, upon the death of the principal, by the
331 personal representative or successor in interest of the principal's estate.
332 If so requested, the agent shall comply with the request not later than
333 thirty days after the date of such request or provide a writing or other
334 record substantiating why additional time is needed, in which case, the
335 agent shall comply with the request not later than thirty days after the
336 date of providing such writing or record.

337 Sec. 15. (NEW) (*Effective October 1, 2014*) A provision in a power of
338 attorney relieving an agent of liability for breach of duty is binding on
339 the principal and the principal's successors in interest except to the
340 extent the provision:

341 (1) Relieves the agent of liability for breach of duty committed
342 dishonestly, with an improper motive or with reckless indifference to
343 the purposes of the power of attorney or the best interest of the
344 principal; or

345 (2) Was inserted as a result of an abuse of a confidential or fiduciary
346 relationship with the principal.

347 Sec. 16. (NEW) (*Effective October 1, 2014*) (a) The following persons
348 may petition a court in accordance with subsection (d) of section 45a-
349 175 of the general statutes, as amended by this act, to construe a power
350 of attorney or review the agent's conduct, and grant appropriate relief:

351 (1) The principal or the agent;

352 (2) A guardian, conservator or other fiduciary acting for the
353 principal;

354 (3) A person authorized to make health care decisions for the
355 principal;

356 (4) The principal's spouse, parent or descendant;

357 (5) An individual who would qualify as a presumptive heir of the
358 principal;

359 (6) A person named as a beneficiary to receive any property, benefit
360 or contractual right on the principal's death or as a beneficiary of a
361 trust created by or for the principal that has a financial interest in the
362 principal's estate;

363 (7) A governmental agency having regulatory authority to protect
364 the welfare of the principal;

365 (8) The principal's caregiver or another person that demonstrates
366 sufficient interest in the principal's welfare; and

367 (9) A person asked to accept the power of attorney.

368 (b) Upon motion by the principal, the court shall dismiss a petition
369 filed under this section, unless the court finds that the principal is
370 incapacitated within the meaning set forth in subdivision (5) of section
371 2 of this act.

372 Sec. 17. (NEW) (*Effective October 1, 2014*) An agent that violates
373 sections 1 to 45, inclusive, of this act is liable to the principal or the
374 principal's successors in interest for the amount required to:

375 (1) Restore the value of the principal's property to what it would
376 have been had the violation not occurred; and

377 (2) Reimburse the principal or the principal's successors in interest
378 for the reasonable attorney's fees and costs paid on the agent's behalf.

379 Sec. 18. (NEW) (*Effective October 1, 2014*) Unless the power of
380 attorney provides a different method for an agent's resignation, an
381 agent may resign by giving notice to the principal and, if the principal
382 is incapacitated:

383 (1) To the conservator of the estate, the conservator of the person
384 and guardian, if one has been appointed for the principal, and a
385 coagent or successor agent; or

386 (2) If there is no person described in subdivision (1) of this section,
387 to:

388 (A) A person reasonably believed by the agent to have sufficient
389 interest in the principal's welfare; or

390 (B) A governmental agency having authority to protect the welfare
391 of the principal.

392 Sec. 19. (NEW) (*Effective October 1, 2014*) (a) For purposes of this
393 section and section 20 of this act, "acknowledged" means purportedly
394 verified before a notary public or other individual authorized to take
395 acknowledgements.

396 (b) A person that in good faith accepts an acknowledged power of
397 attorney without actual knowledge that the signature is not genuine
398 may rely upon the presumption under section 5 of this act that the
399 signature is genuine.

400 (c) A person that in good faith accepts an acknowledged power of
401 attorney without actual knowledge that the power of attorney is void,
402 invalid, or terminated, that the purported agent's authority is void,
403 invalid, or terminated, or that the agent is exceeding or improperly
404 exercising the agent's authority may rely upon the power of attorney
405 as if the power of attorney were genuine, valid and still in effect, the
406 agent's authority were genuine, valid and still in effect, and the agent
407 had not exceeded and had properly exercised the authority.

408 (d) A person that is asked to accept an acknowledged power of
409 attorney may request, and rely upon, without further investigation:

410 (1) An agent's certification under penalty of perjury of any factual
411 matter concerning the principal, agent or power of attorney;

412 (2) An English translation of the power of attorney if the power of
413 attorney contains, in whole or in part, language other than English;
414 and

415 (3) An opinion of counsel as to any matter of law concerning the
416 power of attorney if the person making the request provides in a
417 writing or other record the reason for the request.

418 (e) An English translation or an opinion of counsel requested under
419 this section must be provided at the principal's expense unless the
420 request is made more than seven business days after the power of
421 attorney is presented for acceptance.

422 (f) For purposes of this section and section 20 of this act, a person
423 that conducts activities through employees and has implemented
424 commercially reasonable standards to communicate information
425 regarding powers of attorney among its employees is without actual
426 knowledge of a fact relating to a power of attorney, a principal or an
427 agent if the employee conducting the transaction involving the power
428 of attorney has followed such standards and nonetheless is without
429 actual knowledge of the fact.

430 Sec. 20. (NEW) (*Effective October 1, 2014*) (a) Except as provided in
431 subsection (b) of this section:

432 (1) A person shall either accept an acknowledged power of attorney
433 or request a certification a translation, or an opinion of counsel under
434 subsection (d) of section 19 of this act not later than seven business
435 days after presentation of the power of attorney for acceptance;

436 (2) If a person requests a certification, a translation, or an opinion of
437 counsel under subsection (d) of section 19 of this act, the person shall
438 accept the power of attorney not later than five business days after
439 receipt of the certification, translation, or opinion of counsel; and

440 (3) A person may not require an additional or different form of
441 power of attorney for authority granted in the power of attorney
442 presented.

443 (b) A person is not required to accept an acknowledged power of
444 attorney if:

445 (1) The person is not otherwise required to engage in a transaction
446 with the principal in the same circumstances;

447 (2) Engaging in a transaction with the agent or the principal in the
448 same circumstances would be inconsistent with state or federal law;

449 (3) The person has actual knowledge of the termination of the
450 agent's authority or of the power of attorney before exercise of the
451 power;

452 (4) A request for a certification, a translation, or an opinion of
453 counsel under subsection (d) of section 19 of this act is refused;

454 (5) The person in good faith believes that the power is not valid or
455 that the agent does not have the authority to perform the act requested,
456 whether or not a certification, a translation, or an opinion of counsel
457 under subsection (d) of section 19 of this act has been requested or
458 provided; or

459 (6) The person makes, or has actual knowledge that another person
460 has made, a report to the Bureau of Aging, Community and Social
461 Work Services Division of the Department of Social Services stating a
462 good faith belief that the principal may be subject to physical or
463 financial abuse, neglect, exploitation or abandonment by the agent or a
464 person acting for or with the agent.

465 (c) A person that refuses in violation of this section to accept an
466 acknowledged power of attorney is subject to:

467 (1) An order by a probate court or by a court of general jurisdiction
468 mandating acceptance of the power of attorney; and

469 (2) Liability for reasonable attorney's fees and costs incurred in any
470 action or proceeding that confirms the validity of the power of
471 attorney or mandates acceptance of the power of attorney.

472 Sec. 21. (NEW) (*Effective October 1, 2014*) Unless displaced by a
473 provision of sections 1 to 45, inclusive, of this act, the principles of law

474 and equity supplement the provisions of sections 1 to 45, inclusive, of
475 this act.

476 Sec. 22. (NEW) (*Effective October 1, 2014*) The provisions of sections 1
477 to 45, inclusive, of this act do not supersede any other law applicable to
478 financial institutions or other entities, and the other law controls if
479 inconsistent with the provisions of sections 1 to 45, inclusive, of this
480 act.

481 Sec. 23. (NEW) (*Effective October 1, 2014*) The remedies under
482 sections 1 to 45, inclusive, of this act are not exclusive and do not
483 abrogate any right or remedy under the law of this state, other than
484 sections 1 to 45, inclusive, of this act.

485 Sec. 24. (NEW) (*Effective October 1, 2014*) (a) An agent under a power
486 of attorney may do the following on behalf of the principal or with the
487 principal's property only if the power of attorney expressly grants the
488 agent the authority and exercise of the authority is not otherwise
489 prohibited by another agreement or instrument to which the authority
490 or property is subject:

491 (1) Create, amend, revoke, or terminate an inter vivos trust;

492 (2) Make a gift;

493 (3) Create or change rights of survivorship;

494 (4) Create or change a beneficiary designation;

495 (5) Delegate authority granted under the power of attorney;

496 (6) Waive the principal's right to be a beneficiary of a joint and
497 survivor annuity, including a survivor benefit under a retirement plan;

498 (7) Exercise fiduciary powers that the principal has authority to
499 delegate; or

500 (8) Disclaim property, including a power of appointment.

501 (b) Notwithstanding a grant of authority to do an act described in
502 subsection (a) of this section, unless the power of attorney otherwise
503 provides, an agent that is not an ancestor, spouse or descendant of the
504 principal may not exercise authority under a power of attorney to
505 create in the agent, or in an individual to whom the agent owes a legal
506 obligation of support, an interest in the principal's property, whether
507 by gift, right of survivorship, beneficiary designation, disclaimer or
508 otherwise.

509 (c) Subject to the provisions set forth in subsections (a), (b), (d) and
510 (e) of this section, if a power of attorney grants to an agent authority to
511 do all acts that a principal could do, the agent has the general authority
512 described in sections 27 to 39, inclusive, of this act.

513 (d) Unless the power of attorney otherwise provides, a grant of
514 authority to make a gift is subject to section 40 of this act.

515 (e) Subject to the provisions set forth in subsections (a), (b) and (d)
516 of this section, if the subjects over which authority is granted in a
517 power of attorney are similar or overlap, the broadest authority
518 controls.

519 (f) Authority granted in a power of attorney is exercisable with
520 respect to property that the principal has when the power of attorney
521 is executed or acquires later, whether or not the property is located in
522 this state and whether or not the authority is exercised or the power of
523 attorney is executed in this state.

524 (g) An act performed by an agent pursuant to a power of attorney
525 has the same effect and inures to the benefit of and binds the principal
526 and the principal's successors in interest as if the principal had
527 performed the act.

528 Sec. 25. (NEW) (*Effective October 1, 2014*) (a) An agent has authority
529 described in sections 24 to 40, inclusive, of this act if the power of
530 attorney refers to general authority with respect to the descriptive term
531 for the subjects stated in sections 27 to 40, inclusive, of this act or cites

532 the section in which the authority is described.

533 (b) A reference in a power of attorney to general authority with
534 respect to the descriptive term for a subject in sections 27 to 40,
535 inclusive, of this act or a citation to a section of sections 27 to 40,
536 inclusive, of this act incorporates the entire section as if it were set out
537 in full in the power of attorney.

538 (c) A principal may modify authority incorporated by reference.

539 Sec. 26. (NEW) (*Effective October 1, 2014*) Unless the power of
540 attorney otherwise provides, by executing a power of attorney that
541 incorporates by reference a subject described in sections 27 to 40,
542 inclusive, of this act or that grants to an agent authority to do all acts
543 that a principal could do pursuant to subsection (c) of section 24 of this
544 act, a principal authorizes the agent, with respect to that subject, to:

545 (1) Demand, receive, and obtain by litigation or otherwise, money or
546 another thing of value to which the principal is, may become, or claims
547 to be entitled, and conserve, invest, disburse or use anything so
548 received or obtained for the purposes intended;

549 (2) Contract in any manner with any person, on terms agreeable to
550 the agent, to accomplish a purpose of a transaction and perform,
551 rescind, cancel, terminate, reform, restate, release or modify the
552 contract or another contract made by or on behalf of the principal;

553 (3) Execute, acknowledge, seal, deliver, file or record any instrument
554 or communication the agent considers desirable to accomplish a
555 purpose of a transaction, including creating at any time a schedule
556 listing some or all of the principal's property and attaching it to the
557 power of attorney;

558 (4) Initiate, participate in, submit to alternative dispute resolution,
559 settle, oppose or propose or accept a compromise with respect to a
560 claim existing in favor of or against the principal or intervene in
561 litigation relating to the claim;

562 (5) Seek on the principal's behalf the assistance of a court or other
563 governmental agency to carry out an act authorized in the power of
564 attorney;

565 (6) Engage, compensate and discharge an attorney, accountant,
566 discretionary investment manager, expert witness or other advisor;

567 (7) Prepare, execute and file a record, report or other document to
568 safeguard or promote the principal's interest under a federal or state
569 statute or regulation;

570 (8) Communicate with any representative or employee of a
571 government or governmental subdivision, agency or instrumentality,
572 on behalf of the principal;

573 (9) Access communications intended for, and communicate on
574 behalf of, the principal, whether by mail, electronic transmission,
575 telephone or other means; and

576 (10) Do any lawful act with respect to the subject and all property
577 related to the subject.

578 Sec. 27. (NEW) (*Effective October 1, 2014*) Unless the power of
579 attorney otherwise provides, language in a power of attorney granting
580 general authority with respect to real property authorizes the agent to:

581 (1) Demand, buy, lease, receive, accept as a gift or as security for an
582 extension of credit or otherwise acquire or reject an interest in real
583 property or a right incident to real property;

584 (2) Sell; exchange; convey with or without covenants,
585 representations, or warranties; quitclaim; release; surrender; retain title
586 for security; encumber; partition; consent to partitioning; subject to an
587 easement or covenant; subdivide; apply for zoning or other
588 governmental permits; plat or consent to platting; develop; grant an
589 option concerning; lease; sublease; contribute to an entity in exchange
590 for an interest in that entity; or otherwise grant or dispose of an
591 interest in real property or a right incident to real property;

592 (3) Pledge or mortgage an interest in real property or right incident
593 to real property as security to borrow money or pay, renew or extend
594 the time of payment of a debt of the principal or a debt guaranteed by
595 the principal;

596 (4) Release, assign, satisfy or enforce by litigation or otherwise a
597 mortgage, deed of trust, conditional sale contract, encumbrance, lien or
598 other claim to real property which exists or is asserted;

599 (5) Manage or conserve an interest in real property or a right
600 incident to real property owned or claimed to be owned by the
601 principal, including:

602 (A) Insuring against liability or casualty or other loss;

603 (B) Obtaining or regaining possession of or protecting the interest or
604 right by litigation or otherwise;

605 (C) Paying, assessing, compromising or contesting taxes or
606 assessments or applying for and receiving refunds in connection with
607 such taxes or assessments; and

608 (D) Purchasing supplies, hiring assistance or labor and making
609 repairs or alterations to the real property;

610 (6) Use, develop, alter, replace, remove, erect or install structures or
611 other improvements upon real property in or incident to which the
612 principal has, or claims to have, an interest or right;

613 (7) Participate in a reorganization with respect to real property or an
614 entity that owns an interest in or right incident to real property and
615 receive, and hold and act with respect to stocks and bonds or other
616 property received in a plan of reorganization, including:

617 (A) Selling or otherwise disposing of such stocks, bonds or other
618 property;

619 (B) Exercising or selling an option, right of conversion or similar
620 right with respect to such stocks, bonds or other property; and

621 (C) Exercising any voting rights in person or by proxy;

622 (8) Change the form of title of an interest in or right incident to real
623 property; and

624 (9) Dedicate to public use, with or without consideration, easements
625 or other real property in which the principal has, or claims to have, an
626 interest.

627 Sec. 28. (NEW) (*Effective October 1, 2014*) Unless the power of
628 attorney otherwise provides, language in a power of attorney granting
629 general authority with respect to tangible personal property authorizes
630 the agent to:

631 (1) Demand, buy, receive, accept as a gift or as security for an
632 extension of credit or otherwise acquire or reject ownership or
633 possession of tangible personal property or an interest in tangible
634 personal property;

635 (2) Sell; exchange; convey with or without covenants,
636 representations, or warranties; quitclaim; release; surrender; create a
637 security interest in; grant options concerning; lease; sublease; or
638 otherwise dispose of tangible personal property or an interest in
639 tangible personal property;

640 (3) Grant a security interest in tangible personal property or an
641 interest in tangible personal property as security to borrow money or
642 pay, renew or extend the time of payment of a debt of the principal or
643 a debt guaranteed by the principal;

644 (4) Release, assign, satisfy or enforce by litigation or otherwise, a
645 security interest, lien or other claim on behalf of the principal, with
646 respect to tangible personal property or an interest in tangible personal
647 property;

648 (5) Manage or conserve tangible personal property or an interest in
649 tangible personal property on behalf of the principal, including:

- 650 (A) Insuring against liability or casualty or other loss;
- 651 (B) Obtaining or regaining possession of or protecting the property
652 or interest, by litigation or otherwise;
- 653 (C) Paying, assessing, compromising or contesting taxes or
654 assessments or applying for and receiving refunds in connection with
655 such taxes or assessments;
- 656 (D) Moving the property from place to place;
- 657 (E) Storing the property for hire or on a gratuitous bailment;
- 658 (F) Using and making repairs, alterations or improvements to the
659 property; and
- 660 (6) Change the form of title of an interest in tangible personal
661 property.
- 662 Sec. 29. (NEW) (*Effective October 1, 2014*) Unless the power of
663 attorney otherwise provides, language in a power of attorney granting
664 general authority with respect to stocks and bonds authorizes the
665 agent to:
- 666 (1) Buy, sell and exchange stocks and bonds;
- 667 (2) Establish, continue, modify or terminate an account with respect
668 to stocks and bonds;
- 669 (3) Pledge stocks and bonds as security to borrow, pay, renew or
670 extend the time of payment of a debt of the principal;
- 671 (4) Receive certificates and other evidences of ownership with
672 respect to stocks and bonds; and
- 673 (5) Exercise voting rights with respect to stocks and bonds in person
674 or by proxy, enter into voting trusts and consent to limitations on the
675 right to vote.

676 Sec. 30. (NEW) (*Effective October 1, 2014*) Unless the power of

677 attorney otherwise provides, language in a power of attorney granting
678 general authority with respect to commodities and options authorizes
679 the agent to:

680 (1) Buy, sell, exchange, assign, settle and exercise commodity
681 futures contracts and call or put options on stocks or stock indexes
682 traded on a regulated option exchange; and

683 (2) Establish, continue, modify and terminate option accounts.

684 Sec. 31. (NEW) (*Effective October 1, 2014*) Unless the power of
685 attorney otherwise provides, language in a power of attorney granting
686 general authority with respect to banks and other financial institutions
687 authorizes the agent to:

688 (1) Continue, modify and terminate an account or other banking
689 arrangement made by or on behalf of the principal;

690 (2) Establish, modify, and terminate an account or other banking
691 arrangement with a bank, trust company, savings and loan association,
692 credit union, thrift company, brokerage firm or other financial
693 institution selected by the agent;

694 (3) Contract for services available from a financial institution,
695 including renting a safe deposit box or space in a vault;

696 (4) Withdraw by: Check, order, electronic funds transfer or
697 otherwise, money or property of the principal deposited with or left in
698 the custody of a financial institution;

699 (5) Receive statements of account, vouchers, notices and similar
700 documents from a financial institution and act with respect to them;

701 (6) Enter a safe deposit box or vault and withdraw or add to the
702 contents;

703 (7) Borrow money and pledge as security personal property of the
704 principal necessary to borrow money or pay, renew or extend the time
705 of payment of a debt of the principal or a debt guaranteed by the

706 principal;

707 (8) Make, assign, draw, endorse, discount, guarantee and negotiate
708 promissory notes, checks, drafts and other negotiable or nonnegotiable
709 paper of the principal or payable to the principal or the principal's
710 order, transfer money, receive the cash or other proceeds of those
711 transactions and accept a draft drawn by a person upon the principal
712 and pay it when due;

713 (9) Receive for the principal and act upon a sight draft, warehouse
714 receipt, or other document of title whether tangible or electronic, or
715 other negotiable or nonnegotiable instrument;

716 (10) Apply for, receive and use letters of credit, credit and debit
717 cards, electronic transaction authorizations and traveler's checks from
718 a financial institution and give an indemnity or other agreement in
719 connection with letters of credit; and

720 (11) Consent to an extension of the time of payment with respect to
721 commercial paper or a financial transaction with a financial institution.

722 Sec. 32. (NEW) (*Effective October 1, 2014*) Subject to the terms of a
723 document or an agreement governing an entity or an entity ownership
724 interest, and unless the power of attorney otherwise provides,
725 language in a power of attorney granting general authority with
726 respect to operation of an entity or business authorizes the agent to:

727 (1) Operate, buy, sell, enlarge, reduce, or terminate an ownership
728 interest;

729 (2) Perform a duty or discharge a liability and exercise in person or
730 by proxy a right, power, privilege or option that the principal has, may
731 have or claims to have;

732 (3) Enforce the terms of an ownership agreement;

733 (4) Initiate, participate in, submit to alternative dispute resolution,
734 settle, oppose, or propose or accept a compromise with respect to

735 litigation to which the principal is a party because of an ownership
736 interest;

737 (5) Exercise in person or by proxy, or enforce by litigation or
738 otherwise, a right, power, privilege or option the principal has or
739 claims to have as the holder of stocks and bonds;

740 (6) Initiate, participate in, submit to alternative dispute resolution,
741 settle, oppose, or propose or accept a compromise with respect to
742 litigation to which the principal is a party concerning stocks and
743 bonds;

744 (7) With respect to an entity or business owned solely by the
745 principal:

746 (A) Continue, modify, renegotiate, extend and terminate a contract
747 made by or on behalf of the principal with respect to the entity or
748 business before execution of the power of attorney;

749 (B) Determine:

750 (i) The location of its operation;

751 (ii) The nature and extent of its business;

752 (iii) The methods of manufacturing, selling, merchandising,
753 financing, accounting and advertising employed in its operation;

754 (iv) The amount and types of insurance carried; and

755 (v) The mode of engaging, compensating and dealing with its
756 employees and accountants, attorneys or other advisors;

757 (C) Change the name or form of organization under which the
758 entity or business is operated and enter into an ownership agreement
759 with other persons to take over all or part of the operation of the entity
760 or business; and

761 (D) Demand and receive money due or claimed by the principal or

762 on the principal's behalf in the operation of the entity or business and
763 control and disburse the money in the operation of the entity or
764 business;

765 (8) Put additional capital into an entity or business in which the
766 principal has an interest;

767 (9) Join in a plan of reorganization, consolidation, conversion,
768 domestication or merger of the entity or business;

769 (10) Sell or liquidate all or part of an entity or business;

770 (11) Establish the value of an entity or business under a buyout
771 agreement to which the principal is a party;

772 (12) Prepare, sign, file and deliver reports, compilations of
773 information, returns or other papers with respect to an entity or
774 business and make related payments; and

775 (13) Pay, compromise or contest taxes, assessments, fines or
776 penalties and perform any other act to protect the principal from
777 illegal or unnecessary taxation, assessments, fines or penalties, with
778 respect to an entity or business, including attempts to recover, in any
779 manner permitted by law, money paid before or after the execution of
780 the power of attorney.

781 Sec. 33. (NEW) (*Effective October 1, 2014*) Unless the power of
782 attorney otherwise provides, language in a power of attorney granting
783 general authority with respect to insurance and annuities authorizes
784 the agent to:

785 (1) Continue, pay the premium or make a contribution on, modify,
786 exchange, rescind, release or terminate a contract procured by or on
787 behalf of the principal which insures or provides an annuity to either
788 the principal or another person, whether or not the principal is a
789 beneficiary under the contract;

790 (2) Procure new, different and additional contracts of insurance and

791 annuities for the principal and the principal's spouse, children and
792 other dependents, and select the amount, type of insurance or annuity
793 and mode of payment;

794 (3) Pay the premium or make a contribution on, modify, exchange,
795 rescind, release or terminate a contract of insurance or annuity
796 procured by the agent;

797 (4) Apply for and receive a loan secured by a contract of insurance
798 or annuity;

799 (5) Surrender and receive the cash surrender value on a contract of
800 insurance or annuity;

801 (6) Exercise an election;

802 (7) Exercise investment powers available under a contract of
803 insurance or annuity;

804 (8) Change the manner of paying premiums on a contract of
805 insurance or annuity;

806 (9) Change or convert the type of insurance or annuity with respect
807 to which the principal has or claims to have authority described in this
808 section;

809 (10) Apply for and procure a benefit or assistance under a federal or
810 state statute or regulation to guarantee or pay premiums of a contract
811 of insurance on the life of the principal;

812 (11) Collect, sell, assign, hypothecate, borrow against or pledge the
813 interest of the principal in a contract of insurance or annuity;

814 (12) Select the form and timing of the payment of proceeds from a
815 contract of insurance or annuity; and

816 (13) Pay, from proceeds or otherwise, compromise or contest and
817 apply for refunds in connection with, a tax or assessment levied by a
818 taxing authority with respect to a contract of insurance or annuity or

819 its proceeds or liability accruing by reason of the tax or assessment.

820 Sec. 34. (NEW) (*Effective October 1, 2014*) (a) For purposes of this
821 section, "estate, trust or other beneficial interest" means a trust, probate
822 estate, guardianship, conservatorship, escrow or custodianship or a
823 fund from which the principal is, may become or claims to be, entitled
824 to a share or payment.

825 (b) Unless the power of attorney otherwise provides, language in a
826 power of attorney granting general authority with respect to estates,
827 trusts and other beneficial interests authorizes the agent to:

828 (1) Accept, receive, receipt for, sell, assign, pledge or exchange a
829 share in or payment from an estate, trust or other beneficial interest;

830 (2) Demand or obtain money or another thing of value to which the
831 principal is, may become or claims to be, entitled by reason of an
832 estate, trust or other beneficial interest, by litigation or otherwise;

833 (3) Exercise for the benefit of the principal a presently exercisable
834 general power of appointment held by the principal;

835 (4) Initiate, participate in, submit to alternative dispute resolution,
836 settle, oppose, or propose or accept a compromise with respect to
837 litigation to ascertain the meaning, validity or effect of a deed, will,
838 declaration of trust or other instrument or transaction affecting the
839 interest of the principal;

840 (5) Initiate, participate in, submit to alternative dispute resolution,
841 settle, oppose, or propose or accept a compromise with respect to
842 litigation to remove, substitute or surcharge a fiduciary;

843 (6) Conserve, invest, disburse or use anything received for an
844 authorized purpose; and

845 (7) Transfer an interest of the principal in real property, stocks and
846 bonds, accounts with financial institutions or securities intermediaries,
847 insurance, annuities and other property to the trustee of a revocable

848 trust created by the principal as settlor.

849 Sec. 35. (NEW) (*Effective October 1, 2014*) Unless the power of
850 attorney otherwise provides, language in a power of attorney granting
851 general authority with respect to claims and litigation authorizes the
852 agent to:

853 (1) Assert and maintain before a court or administrative agency a
854 claim, claim for relief, cause of action, counterclaim, offset, recoupment
855 or defense, including an action to recover property or other thing of
856 value, recover damages sustained by the principal, eliminate or modify
857 tax liability, or seek an injunction, specific performance or other relief;

858 (2) Bring an action to determine adverse claims or intervene or
859 otherwise participate in litigation;

860 (3) Seek an attachment, garnishment, order of arrest or other
861 preliminary, provisional or intermediate relief and use an available
862 procedure to effect or satisfy a judgment, order or decree;

863 (4) Make or accept a tender, offer of judgment or admission of facts,
864 submit a controversy on an agreed statement of facts, consent to
865 examination and bind the principal in litigation;

866 (5) Submit to alternative dispute resolution, settle and propose or
867 accept a compromise;

868 (6) Waive the issuance and service of process upon the principal,
869 accept service of process, appear for the principal, designate persons
870 upon which process directed to the principal may be served, execute
871 and file or deliver stipulations on the principal's behalf, verify
872 pleadings, seek appellate review, procure and give surety and
873 indemnity bonds, contract and pay for the preparation and printing of
874 records and briefs, receive, execute, and file or deliver a consent,
875 waiver, release, confession of judgment, satisfaction of judgment,
876 notice, agreement or other instrument in connection with the
877 prosecution, settlement or defense of a claim or litigation;

878 (7) Act for the principal with respect to bankruptcy or insolvency,
879 whether voluntary or involuntary, concerning the principal or some
880 other person, or with respect to a reorganization, receivership or
881 application for the appointment of a receiver or trustee which affects
882 an interest of the principal in property or other thing of value;

883 (8) Pay a judgment, award or order against the principal or a
884 settlement made in connection with a claim or litigation; and

885 (9) Receive money or other thing of value paid in settlement of or as
886 proceeds of a claim or litigation.

887 Sec. 36. (NEW) (*Effective October 1, 2014*) (a) Unless the power of
888 attorney otherwise provides, language in a power of attorney granting
889 general authority with respect to personal and family maintenance
890 authorizes the agent to:

891 (1) Perform the acts necessary to maintain the customary standard
892 of living of the principal, the principal's spouse and the following
893 individuals, whether living when the power of attorney is executed or
894 later born:

895 (A) The principal's children;

896 (B) Other individuals legally entitled to be supported by the
897 principal; and

898 (C) The individuals whom the principal has customarily supported
899 or indicated the intent to support;

900 (2) Make periodic payments of child support and other family
901 maintenance required by a court or governmental agency or an
902 agreement to which the principal is a party;

903 (3) Provide living quarters for the individuals described in
904 subdivision (1) of this subsection by:

905 (A) Purchase, lease or other contract; or

906 (B) Paying the operating costs, including interest, amortization
907 payments, repairs, improvements and taxes, for premises owned by
908 the principal or occupied by those individuals;

909 (4) Provide normal domestic help, usual vacations and travel
910 expenses and funds for shelter, clothing, food, appropriate education,
911 including post secondary and vocational education and other current
912 living costs for the individuals described in subdivision (1) of this
913 subsection;

914 (5) Pay expenses for necessary health care and custodial care on
915 behalf of the individuals described in subdivision (1) of this subsection;

916 (6) Act as the principal's personal representative pursuant to the
917 Health Insurance Portability and Accountability Act, Sections 1171 to
918 1179, inclusive, of the Social Security Act, 42 USC 1320d, as amended
919 from time to time, and applicable federal regulations, in making
920 decisions related to the past, present or future payment for the
921 provision of health care consented to by the principal or anyone
922 authorized under the law of this state to consent to health care on
923 behalf of the principal;

924 (7) Continue any provision made by the principal for automobiles or
925 other means of transportation, including registering, licensing,
926 insuring and replacing them, for the individuals described in
927 subdivision (1) of this subsection;

928 (8) Maintain credit and debit accounts for the convenience of the
929 individuals described in subdivision (1) of this subsection and open
930 new accounts; and

931 (9) Continue payments incidental to the membership or affiliation of
932 the principal in a religious institution, club, society, order or other
933 organization or continue contributions to those organizations.

934 (b) Authority with respect to personal and family maintenance is
935 neither dependent upon, nor limited by, authority that an agent may
936 or may not have with respect to gifts under sections 1 to 45, inclusive,

937 of this act.

938 Sec. 37. (NEW) (*Effective October 1, 2014*) (a) For purposes of this
939 section, "benefits from governmental programs or civil or military
940 service" means any benefit, program or assistance provided under a
941 federal or state statute or regulation including Social Security,
942 Medicare and Medicaid.

943 (b) Unless the power of attorney otherwise provides, language in a
944 power of attorney granting general authority with respect to benefits
945 from governmental programs or civil or military service authorizes the
946 agent to:

947 (1) Execute vouchers in the name of the principal for allowances and
948 reimbursements payable by the United States or a foreign government
949 or by a state or subdivision of a state to the principal, including
950 allowances and reimbursements for transportation of the individuals
951 described in subdivision (a) of subsection (1) of section 36 of this act,
952 and for shipment of their household effects;

953 (2) Take possession and order the removal and shipment of
954 property of the principal from a post, warehouse, depot, dock or other
955 place of storage or safekeeping, either governmental or private, and
956 execute and deliver a release, voucher, receipt, bill of lading, shipping
957 ticket, certificate or other instrument for that purpose;

958 (3) Enroll in, apply for, select, reject, change, amend or discontinue,
959 on the principal's behalf, a benefit or program;

960 (4) Prepare, file, and maintain a claim of the principal for a benefit
961 or assistance, financial or otherwise, to which the principal may be
962 entitled under a federal or state statute or regulation;

963 (5) Initiate, participate in, submit to alternative dispute resolution,
964 settle, oppose, or propose or accept a compromise with respect to
965 litigation concerning any benefit or assistance the principal may be
966 entitled to receive under a federal or state statute or regulation; and

967 (6) Receive the financial proceeds of a claim described in
968 subdivision (4) of this subsection and conserve, invest, disburse or use
969 for a lawful purpose anything so received.

970 Sec. 38. (NEW) (*Effective October 1, 2014*) (a) For purposes of this
971 section, "retirement plan" means a plan or account created by an
972 employer, the principal or another individual to provide retirement
973 benefits or deferred compensation of which the principal is a
974 participant, beneficiary or owner, including a plan or account under
975 the following sections of the of the Internal Revenue Code of 1986, or
976 any subsequent corresponding internal revenue code of the United
977 States, as amended from time to time:

978 (1) An individual retirement account under 26 USC 408, as amended
979 from time to time;

980 (2) A Roth individual retirement account under 26 USC 408A, as
981 amended from time to time;

982 (3) A deemed individual retirement account under 26 USC 408(q), as
983 amended from time to time;

984 (4) An annuity or mutual fund custodial account under 26 USC
985 403(b), as amended from time to time;

986 (5) A pension, profit sharing, stock bonus or other retirement plan
987 qualified under 26 USC 401(a), as amended from time to time;

988 (6) A plan under 26 USC 457(b), as amended from time to time; and

989 (7) A nonqualified deferred compensation plan under 26 USC 409A,
990 as amended from time to time.

991 (b) Unless the power of attorney otherwise provides, language in a
992 power of attorney granting general authority with respect to
993 retirement plans authorizes the agent to:

994 (1) Select the form and timing of payments under a retirement plan
995 and withdraw benefits from a plan;

996 (2) Make a rollover, including a direct trustee to trustee rollover, of
997 benefits from one retirement plan to another;

998 (3) Establish a retirement plan in the principal's name;

999 (4) Make contributions to a retirement plan;

1000 (5) Exercise investment powers available under a retirement plan;
1001 and

1002 (6) Borrow from, sell assets to or purchase assets from a retirement
1003 plan.

1004 Sec. 39. (NEW) (*Effective October 1, 2014*) Unless the power of
1005 attorney otherwise provides, language in a power of attorney granting
1006 general authority with respect to taxes authorizes the agent to:

1007 (1) Prepare, sign and file federal, state, local and foreign income,
1008 gift, payroll, property, Federal Insurance Contributions Act and other
1009 tax returns, claims for refunds, requests for extension of time, petitions
1010 regarding tax matters and any other tax related documents, including,
1011 receipts, offers, waivers, consents, including consents and agreements
1012 under 26 USC 2032A, as amended from time to time, closing
1013 agreements and any power of attorney required by the Internal
1014 Revenue Service or other taxing authority with respect to a tax year
1015 upon which the statute of limitations has not run and the following
1016 twenty-five tax years;

1017 (2) Pay taxes due, collect refunds, post bonds, receive confidential
1018 information and contest deficiencies determined by the Internal
1019 Revenue Service or other taxing authority;

1020 (3) Exercise any election available to the principal under federal,
1021 state, local or foreign tax law; and

1022 (4) Act for the principal in all tax matters for all periods before the
1023 Internal Revenue Service, or other taxing authority.

1024 Sec. 40. (NEW) (*Effective October 1, 2014*) (a) For purposes of this

1025 section, a gift "for the benefit of" a person includes a gift to a trust, an
1026 account under the Uniform Transfers to Minors Act and a tuition
1027 savings account or prepaid tuition plan as defined under 26 USC 529,
1028 as amended from time to time.

1029 (b) Unless the power of attorney otherwise provides, language in a
1030 power of attorney granting general authority with respect to gifts
1031 authorizes the agent only to:

1032 (1) Make outright to, or for the benefit of, a person, a gift of any of
1033 the principal's property, including by the exercise of a presently
1034 exercisable general power of appointment held by the principal, in an
1035 amount per donee not to exceed the annual dollar limits of the federal
1036 gift tax exclusion under 26 USC 2503(b), as amended from time to time,
1037 without regard to whether the federal gift tax exclusion applies to the
1038 gift, or if the principal's spouse agrees to consent to a split gift
1039 pursuant to 26 USC 2513, as amended from time to time, in an amount
1040 per donee not to exceed twice the annual federal gift tax exclusion
1041 limit; and

1042 (2) Consent, pursuant to 26 USC 2513, as amended from time to
1043 time, to the splitting of a gift made by the principal's spouse in an
1044 amount per donee not to exceed the aggregate annual gift tax
1045 exclusions for both spouses.

1046 (c) An agent may make a gift of the principal's property only as the
1047 agent determines is consistent with the principal's objectives if actually
1048 known by the agent and, if unknown, as the agent determines is
1049 consistent with the principal's best interest based on all relevant
1050 factors, including:

1051 (1) The value and nature of the principal's property;

1052 (2) The principal's foreseeable obligations and need for
1053 maintenance;

1054 (3) Minimization of taxes, including income, estate, inheritance,
1055 generation skipping transfer and gift taxes;

1056 (4) Eligibility for a benefit, a program, or assistance under a federal
1057 or state statute or regulation; and

1058 (5) The principal's personal history of making or joining in making
1059 gifts.

1060 Sec. 41. (NEW) (*Effective October 1, 2014*) A document substantially
1061 in the following form may be used to create a statutory form power of
1062 attorney that has the meaning and effect prescribed by sections 1 to 45,
1063 inclusive, of this act.

1064 CONNECTICUT
1065 STATUTORY FORM POWER OF ATTORNEY
1066 IMPORTANT INFORMATION

1067 This power of attorney authorizes another person (your agent) to
1068 make decisions concerning your property for you (the principal). Your
1069 agent will be able to make decisions and act with respect to your
1070 property (including your money) whether or not you are able to act for
1071 yourself. The meaning of authority over subjects listed on this form is
1072 explained in the Connecticut Uniform Power of Attorney Act.

1073 This power of attorney does not authorize the agent to make health
1074 care decisions for you.

1075 You should select someone you trust to serve as your agent. Unless
1076 you specify otherwise, generally the agent's authority will continue
1077 until you die or revoke the power of attorney or the agent resigns or is
1078 unable to act for you.

1079 Your agent is entitled to reasonable compensation unless you state
1080 otherwise in the special instructions.

1081 This form provides for designation of one agent. If you wish to
1082 name more than one agent you may name a coagent in the special
1083 instructions. Coagents are not required to act together unless you
1084 include that requirement in the special instructions.

1085 If your agent is unable or unwilling to act for you, your power of
1086 attorney will end unless you have named a successor agent. You may
1087 also name a second successor agent.

1088 This power of attorney becomes effective immediately unless you
1089 state otherwise in the special instructions.

1090 If you have questions about the power of attorney or the authority
1091 you are granting to your agent, you should seek legal advice before
1092 signing this form.

1093 DESIGNATION OF AGENT

1094 I _____ name the following person
1095 (Name of Principal)
1096
1097 as my agent:

1098 Name of Agent: _____

1099 Agent's Address: _____

1100 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

1101 If my agent is unable or unwilling to act for me, I name as my
1102 successor agent:

1103 Name of Successor Agent: _____

1104 Successor Agent's Address: _____

1105 If my successor agent is unable or unwilling to act for me, I name as
1106 my second successor agent:

1107 Name of Second Successor Agent: _____

1108 Second Successor Agent's Address: _____

1109 GRANT OF GENERAL AUTHORITY

1110 I grant my agent and any successor agent general authority to act
1111 for me with respect to the following subjects as defined in the
1112 Connecticut Uniform Power of Attorney Act, sections 1 to 45,
1113 inclusive, of this act:

1114 (INITIAL each subject you want to include in the agent's general
1115 authority. If you wish to grant general authority over all of the subjects
1116 you may initial "All Preceding Subjects" instead of initialing each
1117 subject.)

1118 ☐ Real Property

1119 ☐ Tangible Personal Property

1120 ☐ Stocks and Bonds

1121 ☐ Commodities and Options

1122 ☐ Banks and Other Financial Institutions

1123 ☐ Operation of Entity or Business

1124 ☐ Insurance and Annuities

1125 ☐ Estates, Trusts and Other Beneficial Interests

1126 ☐ Claims and Litigation

1127 ☐ Personal and Family Maintenance

1128 ☐ Benefits from Governmental Programs or Civil or Military
1129 Service

1130 ☐ Retirement Plans

1131 ☐ Taxes

1132 ☐ All Preceding Subjects

1133 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

1134 My agent MAY NOT do any of the following specific acts for me
1135 UNLESS I have INITIALED the specific authority listed below:

1136 (CAUTION: Granting any of the following will give your agent the
1137 authority to take actions that could significantly reduce your property
1138 or change how your property is distributed at your death. INITIAL
1139 ONLY the specific authority you WANT to give your agent.)

1140 YOU SHOULD SEEK LEGAL ADVICE BEFORE INCLUDING THE
1141 FOLLOWING POWERS.

1142 (___) Make a gift, subject to the limitations of the Connecticut
1143 Uniform Power of Attorney Act and any special instructions in this
1144 power of attorney. Unless otherwise provided in the special
1145 instructions, gifts per recipient may not exceed the annual dollar limits
1146 of the federal gift tax exclusion under Internal Revenue Code Section
1147 2503(b), or if the principal's spouse agrees to consent to a split gift
1148 pursuant to Internal Revenue Code Section 2513, in an amount per
1149 recipient not to exceed twice the annual federal gift tax exclusion limit.
1150 In addition, an agent must determine that gifts are consistent with the
1151 principal's objectives if actually known by the agent and, if unknown,
1152 as the agent determines is consistent with the principal's best interest
1153 based on all relevant factors.

1154 (___) Create or change rights of survivorship

1155 (___) Create or change a beneficiary designation

1156 (___) Authorize another person to exercise the authority granted
1157 under this power of attorney

1158 (___) Waive the principal's right to be a beneficiary of a joint and
1159 survivor annuity, including a survivor benefit under a retirement plan

1160 (___) Exercise fiduciary powers that the principal has authority to
1161 delegate

1162 (___) Disclaim or refuse an interest in property, including a power

1163 of appointment

1164 LIMITATION ON AGENT'S AUTHORITY

1165 An agent that is not my ancestor, spouse, or descendant MAY NOT
1166 use my property to benefit the agent or a person to whom the agent
1167 owes an obligation of support unless I have included that authority in
1168 the special instructions.

1169 SPECIAL INSTRUCTIONS (OPTIONAL)

1170 You may give special instructions on the following lines:

1171 _____
1172 _____
1173 _____
1174 _____
1175 _____
1176 _____

1177 I approve these special instructions

1178 _____
1179 Your Signature Date

1180 EFFECTIVE DATE

1181 This power of attorney is effective immediately unless I have stated
1182 otherwise in the special instructions.

1183 NOMINATION OF CONSERVATOR (OPTIONAL)

1184 Initial below if you want to include the following provision(s):

1185 (___) I hereby nominate the same person(s) that I have named as my
1186 agent(s) under this power of attorney as conservator(s) of my estate if
1187 it becomes necessary for a court to appoint a conservator of my estate.

1188 (___) In the event that a court appoints my agent(s) as my
1189 conservator(s), I request that my conservator(s) not be required to post

1190 a bond.

1191 RELIANCE ON THIS POWER OF ATTORNEY

1192 Any person, including my agent, may rely upon the validity of this
1193 power of attorney or a copy of it unless that person knows it has
1194 terminated or is invalid.

1195 SIGNATURE AND ACKNOWLEDGMENT

1196 Signed in the presence of:

1197 _____
1198 Witness Signature Your Signature Date

1199 _____
1200 Witness Signature Your Signature Date

1201 Your Name Printed

1202 _____

1203 _____

1204 Your Address

1205 _____

1206 Your Telephone Number

1207 State of _____

1208 County of _____

1209 This document was acknowledged before me On _____

1210 (Date)

1211 by_____.

1212 (Name of Principal)

1213 _____ (Seal, if any)

1214 Signature of Commissioner of Superior Court/Notary

1215 My commission expires: _____

1216 IMPORTANT INFORMATION FOR AGENT

1217 Agent's Duties

1218 When you accept the authority granted under this power of
1219 attorney, a special legal relationship is created between you and the
1220 principal. This relationship continues until you resign or the power of
1221 attorney is terminated or revoked. You must:

1222 (1) Do what you know the principal reasonably expects you to do
1223 with the principal's property or, if you do not know the principal's
1224 expectations, act in the principal's best interest;

1225 (2) Act in good faith;

1226 (3) Do nothing beyond the authority granted in this power of
1227 attorney; and

1228 (4) Disclose your identity as an agent whenever you act for the
1229 principal by writing or printing the name of the principal and signing
1230 your own name as "agent" in the following manner:

1231 (Principal's Name) by (Your Signature) as Agent

1232 Unless the special instructions in this power of attorney state
1233 otherwise, you must also:

1234 (1) Act loyally for the principal's benefit;

1235 (2) Avoid conflicts that would impair your ability to act in the
1236 principal's best interest;

1237 (3) Act with care, competence, and diligence;

1238 (4) Keep a record of all receipts, disbursements, and transactions
1239 made on behalf of the principal;

1240 (5) Cooperate with any person that has authority to make health
1241 care decisions for the principal to do what you know the principal
1242 reasonably expects or, if you do not know the principal's expectations,
1243 to act in the principal's best interest; and

1244 (6) Attempt to preserve the principal's estate plan if you know the
1245 plan and preserving the plan is consistent with the principal's best
1246 interest.

1247 Termination of Agent's Authority

1248 You must stop acting on behalf of the principal if you learn of any
1249 event that terminates this power of attorney or your authority under
1250 this power of attorney. Events that terminate a power of attorney or
1251 your authority to act under a power of attorney include:

1252 (1) Death of the principal;

1253 (2) The principal's revocation of the power of attorney or your
1254 authority;

1255 (3) The occurrence of a termination event stated in the power of
1256 attorney;

1257 (4) The purpose of the power of attorney is fully accomplished; or

1258 (5) If you are married to the principal, a legal action is filed with a
1259 court to end your marriage, or for your legal separation, unless the
1260 special instructions in this power of attorney state that such an action
1261 will not terminate your authority.

1262 Liability of Agent

1263 The meaning of the authority granted to you is defined in the
1264 Connecticut Uniform Power of Attorney Act, sections 1 to 45,
1265 inclusive, of this act. If you violate the Connecticut Uniform Power of
1266 Attorney Act, sections 1 to 45, inclusive, of this act or act outside the
1267 authority granted, you may be liable for any damages caused by your
1268 violation.

1269 If there is anything about this document or your duties that you do
1270 not understand, you should seek legal advice.

1271 Sec. 42. (NEW) (*Effective October 1, 2014*) The following optional
1272 form may be used by an agent to certify facts concerning a power of
1273 attorney.

1274 AGENT'S CERTIFICATION AS TO THE

1275 VALIDITY OF POWER OF ATTORNEY AND AGENT'S
1276 AUTHORITY

1277 State of _____

1278 County of _____

1279 I, _____ (Name of Agent), certify under penalty of
1280 false statement that _____ (Name of Principal) granted
1281 me authority as an agent or successor agent in a power of attorney
1282 dated _____.

1283 I further certify that to my knowledge:

1284 (1) the Principal is alive and has not revoked the Power of Attorney
1285 or my authority to act under the Power of Attorney and the Power of
1286 Attorney and my authority to act under the Power of Attorney have
1287 not terminated;

1288 (2) if the Power of Attorney was drafted to become effective upon
1289 the happening of an event or contingency, the event or contingency

1290 has occurred;

1291 (3) if I was named as a successor agent, the prior agent is no longer
1292 able or willing to serve; and

1293 (4) _____

1294 _____

1295 _____

1296 _____

1297 (Insert other relevant statements)

1298 SIGNATURE AND ACKNOWLEDGMENT

1299 _____

1300 Agent's Signature Date

1301 _____

1302 Agent's Name Printed

1303 _____

1304 _____

1305 Agent's Address

1306 _____

1307 Agent's Telephone Number

1308 This document was acknowledged before me on _____,

1309 (Date)

1310 by _____.

1311 (Name of Agent)

1312 _____ (Seal, if any)

1313 Signature of Commissioner of Superior Court/Notary

1314 My commission expires: _____

1315 Sec. 43. (NEW) (*Effective October 1, 2014*) In applying and construing
1316 the provisions of sections 1 to 45, inclusive, of this act, consideration
1317 must be given to the need to promote uniformity of the law with
1318 respect to its subject matter among the states that enact it.

1319 Sec. 44. (NEW) (*Effective October 1, 2014*) Sections 1 to 45, inclusive,
1320 of this act modify, limit, and supersede the federal Electronic
1321 Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,
1322 but do not modify, limit, or supersede Section 101(c) of that act, 15
1323 USC 7001(c), or authorize electronic delivery of any of the notices
1324 described in Section 3(b) of that act, 15 USC 7003(b).

1325 Sec. 45. (NEW) (*Effective October 1, 2014*) (a) Except as otherwise
1326 provided in sections 1 to 45, inclusive, of this act, on October 1, 2014,
1327 said sections apply to:

1328 (1) A power of attorney created before, on, or after October 1, 2014;

1329 (2) A judicial proceeding concerning a power of attorney
1330 commenced on or after October 1, 2014;

1331 (3) A judicial proceeding concerning a power of attorney
1332 commenced before October 1, 2014, unless the court finds that
1333 application of a provision of sections 1 to 45, inclusive, of this act
1334 would substantially interfere with the effective conduct of the judicial
1335 proceeding or prejudice the rights of a party, in which case that
1336 provision does not apply and the superseded law applies; and

1337 (b) An act performed by an agent under a power of attorney before
1338 October 1, 2014, is not affected by sections 1 to 45, inclusive, of this act.

1339 Sec. 46. Subsection (a) of section 45a-98 of the general statutes is
1340 repealed and the following is substituted in lieu thereof (*Effective*
1341 *October 1, 2014*):

1342 (a) Courts of probate in their respective districts shall have the
1343 power to (1) grant administration of intestate estates of persons who
1344 have died domiciled in their districts and of intestate estates of persons

1345 not domiciled in this state which may be granted as provided by
1346 section 45a-303; (2) admit wills to probate of persons who have died
1347 domiciled in their districts or of nondomiciliaries whose wills may be
1348 proved in their districts as provided in section 45a-287; (3) except as
1349 provided in section 45a-98a or as limited by an applicable statute of
1350 limitations, determine title or rights of possession and use in and to
1351 any real, tangible or intangible property that constitutes, or may
1352 constitute, all or part of any trust, any decedent's estate, or any estate
1353 under control of a guardian or conservator, which trust or estate is
1354 otherwise subject to the jurisdiction of the Probate Court, including the
1355 rights and obligations of any beneficiary of the trust or estate and
1356 including the rights and obligations of any joint tenant with respect to
1357 survivorship property; (4) except as provided in section 45a-98a,
1358 construe the meaning and effect of any will or trust agreement if a
1359 construction is required in connection with the administration or
1360 distribution of a trust or estate otherwise subject to the jurisdiction of
1361 the Probate Court, [or, with respect to] an inter vivos trust, if that trust
1362 is or could be subject to jurisdiction of the court for an accounting
1363 pursuant to section 45a-175, provided such an accounting need not be
1364 required, or a power of attorney in accordance with section 16 of this
1365 act; (5) except as provided in section 45a-98a, apply the doctrine of cy
1366 pres or approximation; (6) to the extent provided for in section 45a-175,
1367 call executors, administrators, trustees, guardians, conservators,
1368 persons appointed to sell the land of minors, and [attorneys-in-fact]
1369 agents acting under powers of attorney created in accordance with
1370 section [45a-562] sections 1 to 45, inclusive, of this act, to account
1371 concerning the estates entrusted to their charge or for other relief as
1372 provided in sections 1 to 45, inclusive, of this act; and (7) make any
1373 lawful orders or decrees to carry into effect the power and jurisdiction
1374 conferred upon them by the laws of this state.

1375 Sec. 47. Section 45a-175 of the general statutes is repealed and the
1376 following is substituted in lieu thereof (*Effective October 1, 2014*):

1377 (a) Courts of probate shall have jurisdiction of the interim and final
1378 accounts of testamentary trustees, trustees appointed by the courts of

1379 probate, conservators, guardians, persons appointed by probate courts
1380 to sell the land of minors, executors, administrators and trustees in
1381 insolvency, and, to the extent provided for in this section, shall have
1382 jurisdiction of accounts of the actions of trustees of inter vivos trusts
1383 and [attorneys-in-fact] agents acting under powers of attorney.

1384 (b) A trustee or settlor of an inter vivos trust or an attorney-in-fact
1385 or the successor of the trustee, settlor [or attorney-in-fact or the grantor
1386 of such power of attorney] or his legal representative may make
1387 application to the court of probate for the district where the trustee, or
1388 any one of them, [or the attorney-in-fact] has any place of business or
1389 to the court of probate for the district where the trustee or any one of
1390 them or the settlor [or the attorney-in-fact or the grantor of the power]
1391 resides or, in the case of a deceased settlor or grantor, to the court of
1392 probate having jurisdiction over the estate of the settlor [or grantor] or
1393 for the district in which the settlor [or grantor] resided immediately
1394 prior to death for submission to the jurisdiction of the court of an
1395 account for allowance of the trustee's [or attorney's] actions under such
1396 trust. [or power.]

1397 (c) (1) Any beneficiary of an inter vivos trust may petition a court of
1398 probate having jurisdiction under this section for an accounting by the
1399 trustee or trustees. The court may, after hearing with notice to all
1400 interested parties, grant the petition and require an accounting for
1401 such periods of time as it determines are reasonable and necessary on
1402 finding that: (A) The beneficiary has an interest in the trust sufficient to
1403 entitle him to an accounting, (B) cause has been shown that an
1404 accounting is necessary, and (C) the petition is not for the purpose of
1405 harassment.

1406 (2) A court of probate shall have jurisdiction to require an
1407 accounting under subdivision (1) of subsection (c) of this section if (A)
1408 a trustee of the trust resides in its district, (B) in the case of a corporate
1409 trustee, the trustee has any place of business in the district, (C) any of
1410 the trust assets are maintained or evidences of intangible property of
1411 the trust are situated in the district, or (D) the settlor resides in the

1412 district or, in the case of a deceased settlor, resided in the district
1413 immediately prior to death.

1414 (3) As used in subdivision (1) of subsection (c) of this section,
1415 "beneficiary" means any person currently receiving payments of
1416 income or principal from the trust, or who may be entitled to receive
1417 income or principal or both from the trust at some future date, or the
1418 legal representative of such person.

1419 (d) Any of the persons specified in section 16 of this act may make
1420 application to the court of probate for the district where the agent has
1421 any place of business or to the court of probate for the district where
1422 the agent or the principal resides or, in the case of a deceased principal,
1423 to the court of probate having jurisdiction over the estate of the
1424 principal or for the district in which the principal resided immediately
1425 prior to death, for an accounting or other relief as provided in
1426 section 16 of this act. The court shall grant the petition if filed by the
1427 principal, agent, guardian, conservator or other fiduciary acting for the
1428 principal. The court may grant a petition filed by any other person
1429 specified in section 16 of this act if it finds that (1) the petitioner has an
1430 interest sufficient to entitle him to the relief requested, (2) cause has
1431 been shown that such relief is necessary, and (3) the petition is not for
1432 the purpose of harassment.

1433 ~~[(d)]~~ (e) The action to submit an accounting to the court, whether by
1434 an inter vivos trustee or [attorney] agent acting under a power of
1435 attorney or whether pursuant to petition of another party, shall not
1436 subject the trust or the power of attorney to the continuing jurisdiction
1437 of the Probate Court.

1438 ~~[(e)]~~ (f) If the court finds such appointment to be necessary and in
1439 the best interests of the estate, the court upon its own motion may
1440 appoint an auditor to be selected from a list provided by the Probate
1441 Court Administrator, to examine accounts over which the court has
1442 jurisdiction under this section, except those accounts on matters in
1443 which the fiduciary or cofiduciary is a corporation having trust
1444 powers. The Probate Court Administrator shall promulgate

1445 regulations in accordance with section 45a-77 concerning the
1446 compilation of a list of qualified auditors. Costs of the audit may be
1447 charged to the fiduciary, any party in interest and the estate, in such
1448 proportion as the court shall direct if the court finds such charge to be
1449 equitable. Any such share may be paid from the fund established
1450 under section 45a-82, subject to the approval of the Probate Court
1451 Administrator, if it is determined that the person obligated to pay such
1452 share is unable to pay or to charge such amount to the estate would
1453 cause undue hardship.

1454 [(f)] (g) Upon the allowance of any such account, the court shall
1455 determine the rights of the fiduciaries or the [attorney-in-fact] agent
1456 under a power of attorney rendering the account and of the parties
1457 interested in the account, including the relief authorized under section
1458 17 of this act, subject to appeal as in other cases. The court shall cause
1459 notice of the hearing on the account to be given in such manner and to
1460 such parties as it directs.

1461 [(g)] (h) In any action under this section, the Probate Court shall
1462 have, in addition to powers pursuant to this section, all the powers
1463 available to a judge of the Superior Court at law and in equity
1464 pertaining to matters under this section.

1465 Sec. 48. Subsection (b) of section 45a-645 of the general statutes is
1466 repealed and the following is substituted in lieu thereof (*Effective*
1467 *October 1, 2014*):

1468 (b) The designation shall be executed, witnessed and revoked in the
1469 same manner as provided for wills in sections 45a-251 and 45a-257, or
1470 a power of attorney executed in accordance with section 5 of this act,
1471 except that any person who is so designated as a conservator shall not
1472 qualify as a witness.

1473 Sec. 49. Section 45a-650 of the general statutes is repealed and the
1474 following is substituted in lieu thereof (*Effective October 1, 2014*):

1475 (a) At any hearing on an application for involuntary representation,

1476 before the court receives any evidence regarding the condition of the
1477 respondent or of the respondent's affairs, the court shall require clear
1478 and convincing evidence that the court has jurisdiction, that the
1479 respondent has been given notice as required in section 45a-649, and
1480 that the respondent has been advised of the right to retain an attorney
1481 pursuant to section 45a-649a and is either represented by an attorney
1482 or has waived the right to be represented by an attorney. The
1483 respondent shall have the right to attend any hearing held under this
1484 section.

1485 (b) The rules of evidence in civil actions adopted by the judges of
1486 the Superior Court shall apply to all hearings pursuant to this section.
1487 All testimony at a hearing held pursuant to this section shall be given
1488 under oath or affirmation.

1489 (c) After making the findings required under subsection (a) of this
1490 section, the court shall receive evidence regarding the respondent's
1491 condition, the capacity of the respondent to care for himself or herself
1492 or to manage his or her affairs, and the ability of the respondent to
1493 meet his or her needs without the appointment of a conservator.
1494 Unless waived by the court pursuant to this subsection, evidence shall
1495 be introduced from one or more physicians licensed to practice
1496 medicine in the state who have examined the respondent within forty-
1497 five days preceding the hearing. The evidence shall contain specific
1498 information regarding the respondent's condition and the effect of the
1499 respondent's condition on the respondent's ability to care for himself
1500 or herself or to manage his or her affairs. The court may also consider
1501 such other evidence as may be available and relevant, including, but
1502 not limited to, a summary of the physical and social functioning level
1503 or ability of the respondent, and the availability of support services
1504 from the family, neighbors, community or any other appropriate
1505 source. Such evidence may include, if available, reports from the social
1506 work service of a general hospital, municipal social worker, director of
1507 social service, public health nurse, public health agency, psychologist,
1508 coordinating assessment and monitoring agencies, or such other
1509 persons as the court considers qualified to provide such evidence. The

1510 court may waive the requirement that medical evidence be presented if
1511 it is shown that the evidence is impossible to obtain because of the
1512 absence of the respondent or the respondent's refusal to be examined
1513 by a physician or that the alleged incapacity is not medical in nature. If
1514 such requirement is waived, the court shall make a specific finding in
1515 any decree issued on the application stating why medical evidence
1516 was not required. Any hospital, psychiatric or medical record or report
1517 filed with the court pursuant to this subsection shall be confidential.

1518 (d) Upon the filing of an application for involuntary representation
1519 pursuant to section 45a-648, the court shall issue an order for the
1520 disclosure of the medical information required pursuant to this section
1521 to the respondent's attorney and, upon request, to the respondent. The
1522 court may issue an order for the disclosure of such medical
1523 information to any other person as the court determines necessary.

1524 (e) Notwithstanding the provisions of section 45a-7, the court may
1525 hold the hearing on the application at a place other than its usual
1526 courtroom if it would facilitate attendance by the respondent.

1527 (f) (1) If the court finds by clear and convincing evidence that the
1528 respondent is incapable of managing the respondent's affairs, that the
1529 respondent's affairs cannot be managed adequately without the
1530 appointment of a conservator and that the appointment of a
1531 conservator is the least restrictive means of intervention available to
1532 assist the respondent in managing the respondent's affairs, the court
1533 may appoint a conservator of his or her estate after considering the
1534 factors set forth in subsection (g) of this section.

1535 (2) If the court finds by clear and convincing evidence that the
1536 respondent is incapable of caring for himself or herself, that the
1537 respondent cannot be cared for adequately without the appointment of
1538 a conservator and that the appointment of a conservator is the least
1539 restrictive means of intervention available to assist the respondent in
1540 caring for himself or herself, the court may appoint a conservator of his
1541 or her person after considering the factors set forth in subsection (g) of
1542 this section.

1543 (3) No conservator may be appointed if the respondent's personal
1544 needs and property management are being met adequately by an
1545 agency or individual appointed pursuant to section [1-43,] 19a-575a,
1546 19a-577, 19a-580e or 19a-580g.

1547 (g) When determining whether a conservator should be appointed
1548 the court shall consider the following factors: (1) The abilities of the
1549 respondent; (2) the respondent's capacity to understand and articulate
1550 an informed preference regarding the care of his or her person or the
1551 management of his or her affairs; (3) any relevant and material
1552 information obtained from the respondent; (4) evidence of the
1553 respondent's past preferences and life style choices; (5) the
1554 respondent's cultural background; (6) the desirability of maintaining
1555 continuity in the respondent's life and environment; (7) whether the
1556 respondent had previously made adequate alternative arrangements
1557 for the care of his or her person or for the management of his or her
1558 affairs, including, but not limited to, the execution of a durable power
1559 of attorney, springing power of attorney, the appointment of a health
1560 care representative or health care agent, the execution of a living will
1561 or trust or the execution of any other similar document; (8) any
1562 relevant and material evidence from the respondent's family and any
1563 other person regarding the respondent's past practices and
1564 preferences; and (9) any supportive services, technologies or other
1565 means that are available to assist the respondent in meeting his or her
1566 needs.

1567 (h) The respondent or conserved person may appoint, designate or
1568 nominate a conservator pursuant to section 19a-580e, 19a-580g or 45a-
1569 645, or may, orally or in writing, nominate a conservator who shall be
1570 appointed unless the court finds that the appointee, designee or
1571 nominee is unwilling or unable to serve or there is substantial evidence
1572 to disqualify such person. If there is no such appointment, designation
1573 or nomination or if the court does not appoint the person appointed,
1574 designated or nominated by the respondent or conserved person, the
1575 court may appoint any qualified person, authorized public official or
1576 corporation in accordance with subsections (a) and (b) of section 45a-

1577 644. In considering whom to appoint as conservator, the court shall
1578 consider (1) the extent to which a proposed conservator has knowledge
1579 of the respondent's or conserved person's preferences regarding the
1580 care of his or her person or the management of his or her affairs, (2) the
1581 ability of the proposed conservator to carry out the duties,
1582 responsibilities and powers of a conservator, (3) the cost of the
1583 proposed conservatorship to the estate of the respondent or conserved
1584 person, (4) the proposed conservator's commitment to promoting the
1585 respondent's or conserved person's welfare and independence, and (5)
1586 any existing or potential conflicts of interest of the proposed
1587 conservator.

1588 (i) If the court appoints a conservator of the estate of the respondent,
1589 the court shall require a probate bond. The court may, if it considers it
1590 necessary for the protection of the respondent, require a bond of any
1591 conservator of the person appointed under this section.

1592 (j) Absent the court's order to the contrary and except as otherwise
1593 provided in subsection (b) of section 19a-580e, a conservator appointed
1594 pursuant to this section shall be bound by all health care decisions
1595 properly made by the conserved person's health care representative.

1596 (k) In assigning the duties of a conservator under this section the
1597 court may, in accordance with section 8 of this act, limit, suspend or
1598 terminate the authority of an agent designated by the conserved
1599 person to act under a power of attorney.

1600 [(k) A] (l) Except as provided in subsection (k) of this section, a
1601 conserved person and his agent under a power of attorney shall retain
1602 all rights and authority not expressly assigned to the conservator.

1603 [(l)] (m) The court shall assign to a conservator appointed under this
1604 section only the duties and authority that are the least restrictive
1605 means of intervention necessary to meet the needs of the conserved
1606 person. The court shall find by clear and convincing evidence that such
1607 duties and authority restrict the decision-making authority of the
1608 conserved person only to the extent necessary to provide for the

1609 personal needs or property management of the conserved person. Such
1610 personal needs and property management shall be provided in a
1611 manner appropriate to the conserved person. The court shall make a
1612 finding of the clear and convincing evidence that supports the need for
1613 each duty and authority assigned to the conservator.

1614 [(m)] (n) Nothing in this chapter shall impair, limit or diminish a
1615 conserved person's right to retain an attorney to represent such person
1616 or to seek redress of grievances in any court or administrative agency,
1617 including proceedings in the nature of habeas corpus arising out of
1618 any limitations imposed on the conserved person by court action taken
1619 under this chapter, chapter 319i, chapter 319j or section 45a-242. In any
1620 other proceeding in which the conservator has retained counsel for the
1621 conserved person, the conserved person may request the Court of
1622 Probate to direct the conservator to substitute an attorney chosen by
1623 the conserved person.

1624 Sec. 50. Section 47-5 of the 2014 supplement to the general statutes is
1625 repealed and the following is substituted in lieu thereof (*Effective*
1626 *October 1, 2014*):

1627 (a) All conveyances of land shall be: (1) In writing; (2) if the grantor
1628 is a natural person, subscribed, with or without a seal, by the grantor
1629 with his own hand or with his mark with his name annexed to it or by
1630 his [attorney] agent authorized for that purpose by a power executed,
1631 acknowledged and witnessed in the manner provided for conveyances
1632 or, if the grantor is a corporation, limited liability company or
1633 partnership, subscribed by a duly authorized person; (3)
1634 acknowledged by the grantor, his [attorney] agent or such duly
1635 authorized person (A) to be his free act and deed, or (B) in any manner
1636 permitted under chapter 6 or chapter 8; and (4) attested to by two
1637 witnesses with their own hands.

1638 (b) A document conveying land shall also include the current
1639 mailing address of the grantee.

1640 (c) In addition to the requirements of subsection (a) of this section,

1641 the execution of a deed or other conveyance of real property pursuant
 1642 to a power of attorney shall be deemed sufficient if done in
 1643 substantially the following form:

1644 Name of Owner of Record
 1645 By: (Signature of [Attorney-in-Fact] Agent) L.S.
 1646 Name of Signatory
 1647 His/Her [Attorney-in-Fact] Agent

1648 (d) Nothing in subsection (c) of this section precludes the use of any
 1649 other legal form of execution of deed or other conveyance of real
 1650 property.

1651 Sec. 51. Subsection (c) of section 19a-580f of the general statutes is
 1652 repealed and the following is substituted in lieu thereof (*Effective*
 1653 *October 1, 2014*):

1654 (c) A power of attorney for health care decisions properly executed
 1655 prior to October 1, 2006, shall have the same power and effect as
 1656 provided under section 1-55, revision of 1958, revised to January 1,
 1657 2013, in effect at the time of its execution.

1658 Sec. 52. Sections 1-42 to 1-56, inclusive, of the general statutes and
 1659 sections 1-56h to 1-56k, inclusive, of the general statutes are repealed.
 1660 (*Effective October 1, 2014*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>October 1, 2014</i>	New section
Sec. 3	<i>October 1, 2014</i>	New section
Sec. 4	<i>October 1, 2014</i>	New section
Sec. 5	<i>October 1, 2014</i>	New section
Sec. 6	<i>October 1, 2014</i>	New section
Sec. 7	<i>October 1, 2014</i>	New section
Sec. 8	<i>October 1, 2014</i>	New section
Sec. 9	<i>October 1, 2014</i>	New section
Sec. 10	<i>October 1, 2014</i>	New section

Sec. 11	October 1, 2014	New section
Sec. 12	October 1, 2014	New section
Sec. 13	October 1, 2014	New section
Sec. 14	October 1, 2014	New section
Sec. 15	October 1, 2014	New section
Sec. 16	October 1, 2014	New section
Sec. 17	October 1, 2014	New section
Sec. 18	October 1, 2014	New section
Sec. 19	October 1, 2014	New section
Sec. 20	October 1, 2014	New section
Sec. 21	October 1, 2014	New section
Sec. 22	October 1, 2014	New section
Sec. 23	October 1, 2014	New section
Sec. 24	October 1, 2014	New section
Sec. 25	October 1, 2014	New section
Sec. 26	October 1, 2014	New section
Sec. 27	October 1, 2014	New section
Sec. 28	October 1, 2014	New section
Sec. 29	October 1, 2014	New section
Sec. 30	October 1, 2014	New section
Sec. 31	October 1, 2014	New section
Sec. 32	October 1, 2014	New section
Sec. 33	October 1, 2014	New section
Sec. 34	October 1, 2014	New section
Sec. 35	October 1, 2014	New section
Sec. 36	October 1, 2014	New section
Sec. 37	October 1, 2014	New section
Sec. 38	October 1, 2014	New section
Sec. 39	October 1, 2014	New section
Sec. 40	October 1, 2014	New section
Sec. 41	October 1, 2014	New section
Sec. 42	October 1, 2014	New section
Sec. 43	October 1, 2014	New section
Sec. 44	October 1, 2014	New section
Sec. 45	October 1, 2014	New section
Sec. 46	October 1, 2014	45a-98(a)
Sec. 47	October 1, 2014	45a-175
Sec. 48	October 1, 2014	45a-645(b)
Sec. 49	October 1, 2014	45a-650
Sec. 50	October 1, 2014	47-5
Sec. 51	October 1, 2014	19a-580f(c)

Sec. 52	October 1, 2014	Repealer section
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Statement of Legislative Commissioners:

In sections 1, 17, 36(b) and 44, references to "this act" were changed to "sections 1 to 45, inclusive, of this act" for accuracy. In section 24(c), "sections 26 to 38" was changed to "section 27 to 39" for accuracy. In section 27(7), two references to "them" were changed to "such stocks, bonds or other property" for clarity and sections 52 and 53 containing the repealer provisions were combined into section 52 for accuracy.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

There is no fiscal impact to the state or municipalities associated with the adoption of the Connecticut Uniform Power of Attorney Act.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5215*****AN ACT CONCERNING ADOPTION OF THE CONNECTICUT
UNIFORM POWER OF ATTORNEY ACT.*****SUMMARY:**

This bill enacts the Uniform Power of Attorney Act and repeals current law governing powers of attorney (POA), including a statutory form for a POA, a list of powers the principal can grant an agent in different subjects, and provisions terminating a POA when a conservator of the estate is appointed for a principal who can no longer manage his or her own affairs. Current law allows a principal to grant an agent authority over various subjects such as real estate, stocks and bonds, banking transactions, litigation, and personal relationships.

POAs are documents used by a person (the principal) to designate someone (the agent) to make decisions and act on the principal's behalf. POAs generally name the agent and the powers granted to him or her.

Compared to current law, the bill, among other things:

1. more extensively covers agents' authority, duties, and liabilities;
2. allows a principal to grant an agent authority over more subjects, with more specific powers for agents described under each subject than under current law;
3. makes a POA created under its provisions durable, meaning its effectiveness continues when the principal becomes incapacitated, unless the POA expressly states otherwise (§ 4);
4. allows an agent to continue to exercise powers under a POA after a probate court appoints a conservator, unless the court

changes or terminates the agent's authority;

5. authorizes certain people to petition the probate court to review a POA or an agent's conduct;
6. requires people to accept POAs in most circumstances, allows people to request information about them, and limits when people can refuse to accept POAs; and
7. provides sample POA forms to implement the bill's provisions (§§ 41-42).

The bill gives the probate court power to construe POAs, require agents to account to the court about estates under their control, and provide relief (§ 46).

The bill's provisions generally apply to (1) POAs regardless of when they were created, (2) judicial proceedings about a POA commenced on or after October 1, 2014, and (3) judicial proceedings commenced before that date unless the court finds that applying one of the bill's provisions substantially interferes with the proceeding or prejudices a party's rights. The bill does not affect an act by an agent under a POA before October 1, 2014 (§ 45).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2014

§ 3 — APPLICABILITY

The bill applies to all POAs except a:

1. POA to the extent it is coupled with an interest in the subject of the power, including a power given to or for a creditor's benefit in a credit transaction;
2. POA to make health care decisions;
3. proxy or other delegation of voting or management rights relating to an entity; or

4. POA created on a government form for a governmental purpose.

§§ 5-7 — VALIDITY OF POA

Under the bill, a POA executed in Connecticut before October 1, 2014 is valid if it complied with the legal requirements in place at the time of its execution. A POA executed on or after that date is valid if:

1. the principal or someone he or she directs signs the principal's name and
2. two people witness it.

Signatures by someone other than the principal must take place in the principal's conscious presence. A signature is presumed genuine if the principal acknowledges it before a person authorized to take acknowledgements, such as a notary.

The bill makes an out-of-state POA valid in Connecticut if, at the time of execution, it complied with the requirements of (1) the jurisdiction where it was created, (2) the jurisdiction indicated in the POA, or (3) federal law if it is a military POA. Under the bill, the law of the jurisdiction where the POA was created or the jurisdiction indicated in the bill determines a POA's meaning and effect.

The bill gives a photocopy or electronic copy of the original POA the same effect as the original unless another statute or the POA provides otherwise.

§§ 8 & 49 — CONSERVATORS

The bill allows a principal to nominate a conservator of the estate or person in a POA. By law, a probate court can appoint a (1) conservator of the estate for someone who is incapable of managing his or her affairs and (2) conservator of the person for someone who is incapable of caring for himself or herself.

If the principal is the subject of a protective proceeding after executing the POA, the bill requires the court to appoint the person

most recently nominated as conservator in a POA unless (1) the person is unwilling or unable to serve or (2) substantial evidence shows he or she should be disqualified.

Under the bill, a POA does not terminate if a court appoints a conservator of the estate or other fiduciary after the principal executed a POA. Instead, the agent is accountable to both the fiduciary and principal.

§ 9 — WHEN POA BECOMES EFFECTIVE

Under the bill, a POA is effective when it is executed unless the POA specifies otherwise.

The principal may, in any POA effective based on a future event or contingency, authorize someone to determine in a record that the event or contingency has occurred. If the contingency is the principal's incapacity and the POA does not designate anyone to determine the principal's incapacity or the authorized person is unable or unwilling to do so, the bill requires the determination in a record from:

1. a physician, who states that the principal has a mental, emotional, or physical condition that makes him or her unable to receive and evaluate information or make or communicate decisions or
2. an attorney, a judge, or an appropriate government official, who states that the principal is missing, detained (including incarcerated), or outside the United States and unable to return.

The bill authorizes a person chosen to determine incapacity in a POA to act as the principal's personal representative under the federal Health Insurance Portability and Accountability Act (HIPAA) and regulations to access health care information and communicate with health care providers.

The bill provides a sample affidavit form if the POA authorizes someone to determine that an event or contingency occurred.

§§ 10-11 — TERMINATING A POA OR AN AGENT'S AUTHORITY
POA

A POA terminates when the:

1. principal dies;
2. principal becomes incapacitated if the POA is not durable;
3. principal revokes it;
4. POA states that it terminates;
5. POA's purpose is accomplished;
6. principal revokes the agent's authority or the agent dies, is incapacitated, or resigns and the POA does not provide for another agent; or
7. court decides to terminate the POA in connection with a conservatorship proceeding.

A principal's execution of a subsequent POA does not revoke a previous one unless the new one specifies that it does or states that it revokes all previous POAs.

Agent's Authority

Unless the POA provides otherwise, an agent may exercise his or her authority until the authority terminates regardless of the amount of time since executing the POA.

The bill terminates an agent's authority when the:

1. principal revokes the authority;
2. court appoints a conservator and chooses to terminate the agent's authority;
3. agent dies, resigns, or becomes incapacitated;
4. agent is the principal's spouse and an action is filed to dissolve

or annul the agent's marriage to the principal or they are legally separated (the POA can provide that this provision does not apply); or

5. POA terminates.

Unless the POA provides otherwise, an agent is incapacitated when there is a determination in a record that the agent:

1. has a mental, emotional, or physical condition that makes him or her unable to receive and evaluate information or make or communicate decisions, from a (a) judge in a court proceeding, (b) physician, or (c) successor agent if the primary agent refuses to be examined by a physician or execute a release of medical information or
2. is missing, detained (including in prison), outside the U.S. and unable to return, from an attorney, judge, or appropriate government official.

Binding Actions After Termination

The principal and his or her successors are bound by an agent's actions after an agent's authority or the POA terminates when the agent or other person does not know of the termination and acts in good faith under the POA. This also applies when a POA that is not durable terminates due to the principal's incapacity. But a principal is not bound by acts that are otherwise invalid or unenforceable.

§§ 11-18 & 47 — AGENTS

§ 11 — Coagents and Successor Agents

A POA may designate two or more coagents who can exercise their authority independently, unless the POA provides otherwise.

The POA can also designate successor agents to replace an agent who resigns, dies, is incapacitated, is unqualified, or declines to serve. The POA can grant authority to designate successor agents to (1) an agent or (2) a person designated by name, office, or function. Unless

the POA provides otherwise, a successor agent has the same authority as the original agent and cannot act until there are no predecessor agents.

§ 12 — Compensation

Unless the POA provides otherwise, an agent is entitled to (1) reimbursement for expenses reasonably incurred on the principal's behalf and (2) reasonable compensation under the circumstances.

§ 13 — Accepting Appointments

Unless the POA provides otherwise, a person accepts an appointment as agent if he or she uses the agent's authority, performs the agent's duties, or takes other actions indicating acceptance.

§ 14 — Duties

Regardless of the provisions of the POA, an agent who accepts an appointment must act:

1. according to the principal's reasonable expectations if actually known and otherwise in the principal's best interest,
2. in good faith, and
3. within the authority granted by the POA.

The bill sets additional rules for agents but allows the POA to alter these provisions. Unless the POA provides otherwise, the agent must:

1. act loyally for the principal's benefit;
2. avoid conflicts of interest that impair the agent's ability to act impartially in the principal's best interest;
3. act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;
4. keep records of receipts, disbursements, and transactions made on the principal's behalf;

5. cooperate with someone who has authority to make the principal's health care decisions to carry out the principal's reasonable expectations if actually known and otherwise act in the principal's best interest; and
6. attempt to preserve the principal's estate plan if the agent actually knows about it and it is consistent with the principal's best interest based on all relevant factors.

For actions regarding the principal's estate, the agent must consider factors including (1) the property's value and nature; (2) the principal's foreseeable obligations and need for maintenance; (3) minimizing taxes; and (4) eligibility for federal or state benefits, programs, or assistance.

§§ 11, 14-15 & 17 — Liability

Protections. The bill protects an agent from liability under certain circumstances. Specifically, he or she is not liable:

1. to beneficiaries of an estate plan for failing to preserve the plan if he or she acts in good faith;
2. solely because he or she also benefits from an act or has an interest or conflict about the principal's property or affairs if the agent acts with care, competence, and diligence for the principal's best interest;
3. if the principal's property declines in value unless the agent breached a duty;
4. for the acts, errors, or defaults of someone to whom he or she delegates his or her authority or engages on the principal's behalf, if the agent selected and monitored the person using care, competence, and diligence; and
5. for the actions of another agent if he or she did not participate in or conceal the other agent's breach of fiduciary duty, unless the POA provides otherwise. An agent with knowledge of a breach

or an imminent breach must notify the principal and take reasonable steps to safeguard an incapacitated principal's interests. An agent who fails to take these actions is liable for reasonably foreseeable damages that could have been avoided by taking the required action.

Special Skills. When determining whether an agent acted appropriately under the circumstances, the bill requires considering an agent's special skills or expertise if he or she was selected as agent because of them or in reliance on the agent's representations about them.

Waiving Liability. The bill makes binding a POA provision relieving an agent of liability for breaching a duty unless it:

1. relates to a breach involving dishonesty, improper motives, or reckless indifference to the POA's purpose or the principal's best interest or
2. was included because of an abuse of a confidential or fiduciary relationship with the principal.

Liability to Principal and Successors. An agent who violates the bill's provisions is liable to the principal or his or her successors in interest for:

1. an amount required to restore the value of the principal's property to what it would have been if the violation did not occur and
2. reasonable attorney's fees and costs paid on the agent's behalf.

§ 14(h) — Disclosing Certain Records

Unless the POA provides otherwise, an agent is not required to disclose receipts, disbursements, or transactions unless ordered by a court or requested by:

1. the principal;

2. a guardian, conservator, or other fiduciary acting for the principal;
3. a government agency with authority to protect the principal's welfare; or
4. the personal representative or successor in interest of the principal's estate after the principal's death.

An agent must (1) comply with a request for these documents within 30 days or (2) explain in a record why he or she needs additional time and comply within 30 days of providing the record.

§ 18 — Resignation

Unless the POA provides a different method, an agent may resign by notifying the principal. If the principal is incapacitated, the agent must notify:

1. any appointed guardian or conservator of the estate or person and any coagent or successor agent or
2. if none of the above exist, someone reasonably believed to have sufficient interest in the principal's welfare or a government agency with authority to protect the principal's welfare.

§§ 16 & 47 — PETITIONING PROBATE COURT TO REVIEW POA OR AGENT'S CONDUCT

The following people may petition the probate court to construe a POA or review an agent's conduct:

1. the principal or agent;
2. a guardian, conservator, or other fiduciary acting for the principal;
3. a person authorized to make the principal's health care decisions;
4. the principal's spouse, parent, descendant, or caregiver;

5. an individual who (a) would qualify as the principal's presumptive heir or (b) demonstrates sufficient interest in the principal's welfare;
6. a person named as a beneficiary to receive property, a benefit, or a contractual right when the principal dies or a trust beneficiary with an interest in the principal's estate;
7. a government agency with authority to protect the principal's welfare; or
8. a person asked to accept the POA.

The person must apply to the probate court in the district (1) where the agent has a place of business; (2) where the agent or principal resides; or (3) if the principal is deceased, with jurisdiction over the estate or where the principal resided immediately before death.

The bill requires the probate court to grant the petition if it is filed by the principal, agent, guardian, conservator, or other fiduciary. It may grant it for any of the people listed above if (1) the petitioner has sufficient interest to be entitled to relief, (2) there is cause shown for the relief requested, and (3) the petition is not intended to harass. The court must dismiss a petition on the principal's motion unless he or she is incapacitated.

§§ 19-20 — ACCEPTING A POA

Acknowledged POA

A person who in good faith accepts an acknowledged POA may rely on the bill's presumption that the signature on the POA is genuine (see § 5), as long as the person accepting the POA does not know that the signature on a POA is not genuine. Such a person can rely on the POA if he or she does not know that the (1) POA or the agent's authority is void, invalid, or terminated or (2) agent is exceeding or improperly exercising his or her authority.

Requesting Information

A person asked to accept an acknowledged POA may request and rely on:

1. an agent's certification under penalty of perjury of any fact concerning the principal, agent, or POA;
2. an English translation of any part of the POA in another language; and
3. counsel's opinion regarding any legal matter involving the POA if the reason for the request is put in a record.

The principal must pay the expense of a translation or opinion if the request for one is made within seven days of presenting the POA for acceptance.

Actual Knowledge of Facts Relating to the POA

A person or business entity that conducts activities through employees does not have actual knowledge of a fact if the:

1. person or entity has commercially reasonable standards to communicate information about POAs and
2. employee conducting the transaction involving the POA follows the standards and does not know the fact.

Accepting a POA

A person must either accept an acknowledged POA or request information as described above within seven business days of being presented with the POA. If information is requested, the person must accept the POA within five business days of receiving the response.

No one may require an additional or different POA regarding the same authority in a presented POA.

Refusing a POA

A person may refuse to accept an acknowledged POA if he or she:

1. is not required to engage in a transaction with the principal or

doing so with the principal or agent is inconsistent with state or federal law;

2. has actual knowledge that the agent's authority or the POA terminated;
3. requested information as described above and the request was refused;
4. has a good faith belief the POA is invalid or the agent lacks authority regarding a particular act, whether or not the person requests or receives additional information through the process described above; or
5. makes or knows someone else has made a report to the Department of Social Services' Bureau of Aging with a good faith belief that the principal is subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or someone connected to the agent.

But a probate court or the Superior Court can require a person who refuses to accept an acknowledged POA in violation of the bill to accept it and the person is liable for reasonable attorneys' fees and costs for a proceeding to confirm the POA's validity and mandate its acceptance.

§§ 24-40 — AGENT'S POWERS

An agent may do the following if the POA expressly grants authority and exercising the authority is not prohibited by another agreement or instrument to which the authority or property is subject:

1. create, change, or terminate an inter vivos trust (one created and effective during a person's lifetime);
2. make a gift;
3. create or change survivorship rights or a beneficiary designation;

4. delegate authority under the POA;
5. waive the principal's right to be a beneficiary of a joint and survivor annuity;
6. exercise fiduciary powers that the principal can delegate; or
7. disclaim property.

An agent who is not the principal's ancestor, spouse, or descendant may not create an interest in the principal's property in the agent or someone the agent is legally obligated to support. But the bill allows the POA to specify otherwise.

The bill provides that:

1. When authorities granted an agent are similar and overlap, the broadest authority controls.
2. An agent can exercise authority over property the principal has when executing the POA or that is acquired later regardless of which state it is in or whether the POA is executed in Connecticut.
3. An agent's act under a POA binds the principal and his or her successors as if the principal performed the act.

§§ 24-26 — *Incorporating Powers in a POA*

A POA granting an agent authority to do all the acts the principal could do gives the agent the general authority to perform all the functions for all of the subjects listed below (see Table 1). But a grant of authority regarding gifts is subject to the bill's provisions unless the POA provides otherwise.

The bill gives an agent all of the authority described above and in Table 1 below if the POA refers to general authority and uses the descriptive terms for the subjects in Table 1 or cites the relevant sections of the bill for those subjects. Such a reference regarding a

subject incorporates all of the provisions regarding that subject. The bill allows a principal to modify an authority incorporated by reference.

The bill provides that a POA incorporating the subjects listed in Table 1 by reference or granting an agent authority to do all the acts that the principal could do authorizes the agent, for each subject, to take a number of actions such as:

1. demanding money the principal is entitled to,
2. entering and changing contracts,
3. executing documents,
4. seeking court or government assistance,
5. paying professionals such as lawyers and advisors,
6. communicating with government officials,
7. accessing the principal's communications, and
8. doing other lawful acts.

But the bill allows the POA to provide otherwise.

§§ 27-40 — Granting Authority by Subject

The bill describes the specific actions an agent can perform when language in a POA grants an agent general authority over a subject. But the bill allows a POA to provide otherwise. Table 1 lists each subject covered by the bill and provides examples of the authority the bill gives to an agent under each subject.

Table 1: Agent's Powers Authorized by the Bill, by Subject

Subject (§)	Examples of Agent's Specific Authority Regarding the Subject
Real property (§ 27)	Selling and making certain other transfers of the property, applying for government permits, mortgaging the property and taking other credit-related actions, and using or altering structures
Tangible personal property	Selling and making certain other transfers of the property, granting

(§ 28)	security interests, and managing the property
Stocks and bonds (§ 29)	Buying and selling stocks and bonds, changing accounts related to them, using them to borrow money, and exercising voting rights
Commodities and options (§ 30)	Buying and selling commodities and options and changing accounts related to them
Banks and financial institutions (§ 31)	Making changes to accounts or contracting for services with these institutions, using safe deposit boxes, borrowing money, and using checks
Operating an entity or business (§ 32)	Subject to a document or agreement governing an entity or ownership interests: operating or making changes to ownership interests, performing duties or discharging liabilities, exercising rights, taking certain actions when the principal is the sole owner, adding capital to the entity, and taking part in certain transactions
Insurance and annuities (§ 33)	Paying premiums and making changes to insurance contracts and annuities, acquiring loans based on an insurance or annuity contract, exercising elections and investment powers, determining payments from insurance contracts or annuities, and paying related taxes
Estates, trusts, and other beneficial interests (§ 34)	Accepting and disposing of payments from a trust, estate, or beneficial interest; exercising a power of appointment; and transferring securities to the trustee of a revocable trust
Claims and litigation (§ 35)	Asserting claims before courts and administrative agencies, seeking relief and satisfying judgments, accepting service of process, acting for the principal in bankruptcy proceedings, paying judgments, and settling claims
Personal and family maintenance (§ 36)	Acting to maintain the customary standard of living and providing living quarters for the principal and certain others, making support payments required by law or agreement, paying health care expenses, and providing for transportation and other needs and expenses
Benefits from government programs and civil and military service (§ 37)	Making changes regarding the principal's enrollment in benefit programs, making benefit claims, and receiving claim proceeds
Retirement plans (§ 38)	Determining how to receive payments from plans, creating and contributing to plans, making investments, and making decisions regarding assets
Taxes (§ 39)	Preparing and filing income, gift, payroll, and other taxes; paying taxes and claiming refunds; receiving confidential information from taxing authorities; and acting for the principal in all matters before taxing authorities
Gifts (§ 40)	Making gifts with consideration of certain federal tax consequences and consistent with the principal's objectives if known or as the agent determines are in the principal's best interest based on certain factors

§§ 21-23 & 43-44 — OTHER PROVISIONS

Under the bill:

1. the principles of law and equity supplement the bill's provisions (§ 21),
2. the bill's provisions do not supersede other laws regarding financial institutions and entities and the other laws control if they are inconsistent with the bill (§ 22), and
3. the bill's remedies do not limit other rights and remedies under state law (§ 23).

In applying and construing the bill's provisions, consideration must be given to the need to promote uniformity with respect to its subject matter among states that have enacted the uniform provisions (§ 43).

The bill provides that it modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (E-SIGN). But the bill does not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures (such as when consumers are considered to have consented to electronic disclosures) or (2) authorize electronic delivery of specified notices that are not subject to E-SIGN (§ 44). The bill does not specify how it relates to the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to -286), which also validates the use of electronic records and signatures.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 39 Nay 1 (04/02/2014)